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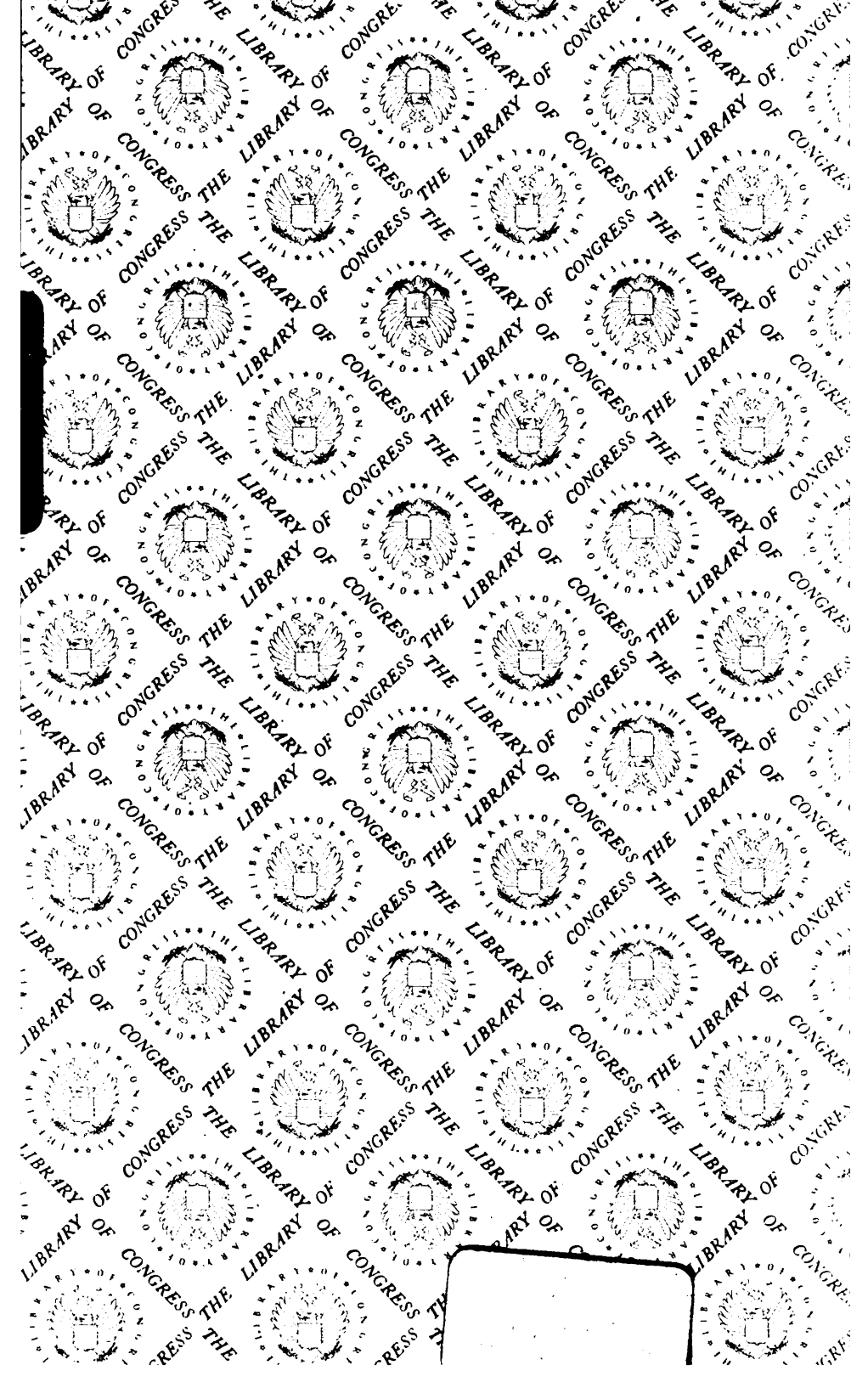
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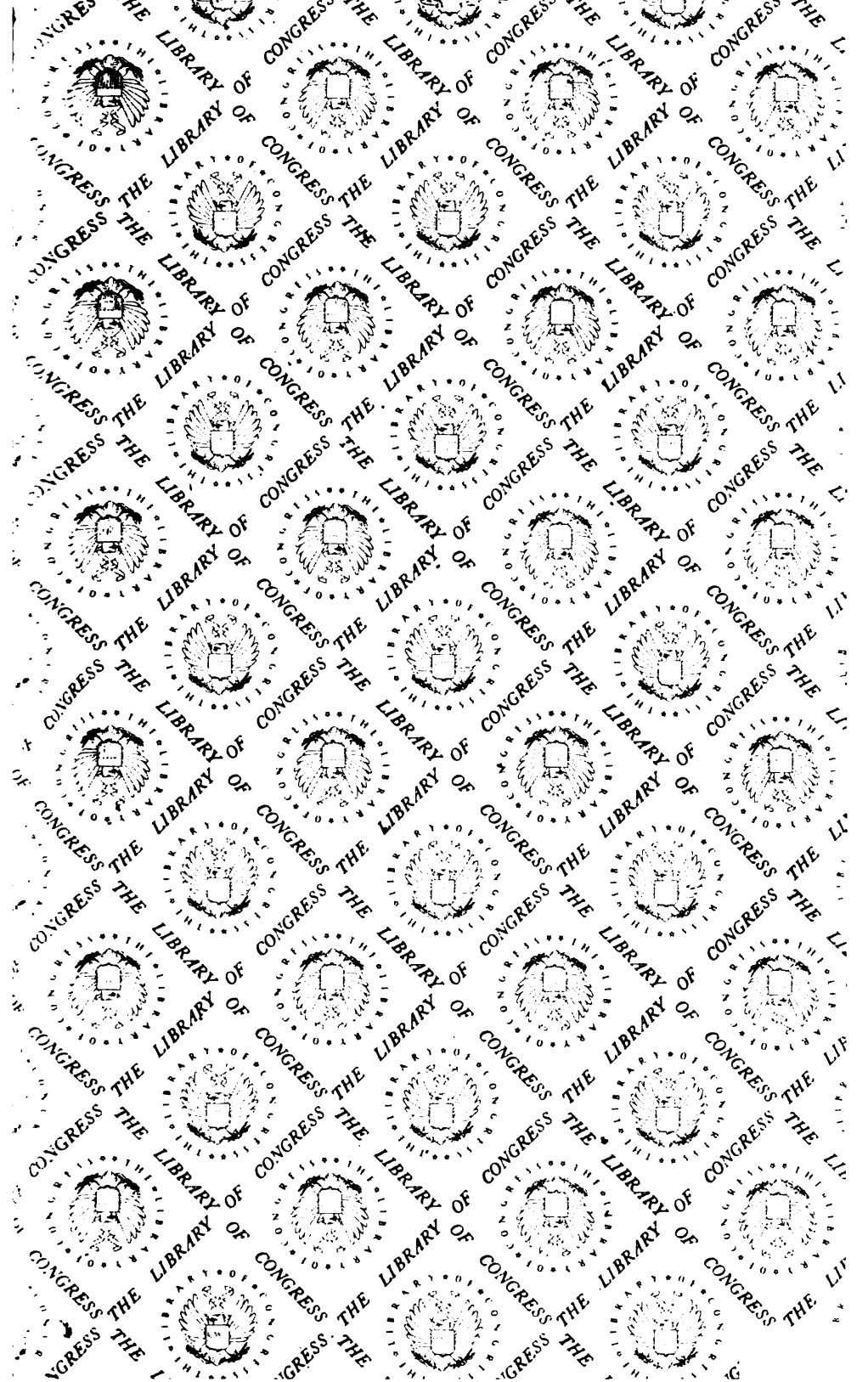
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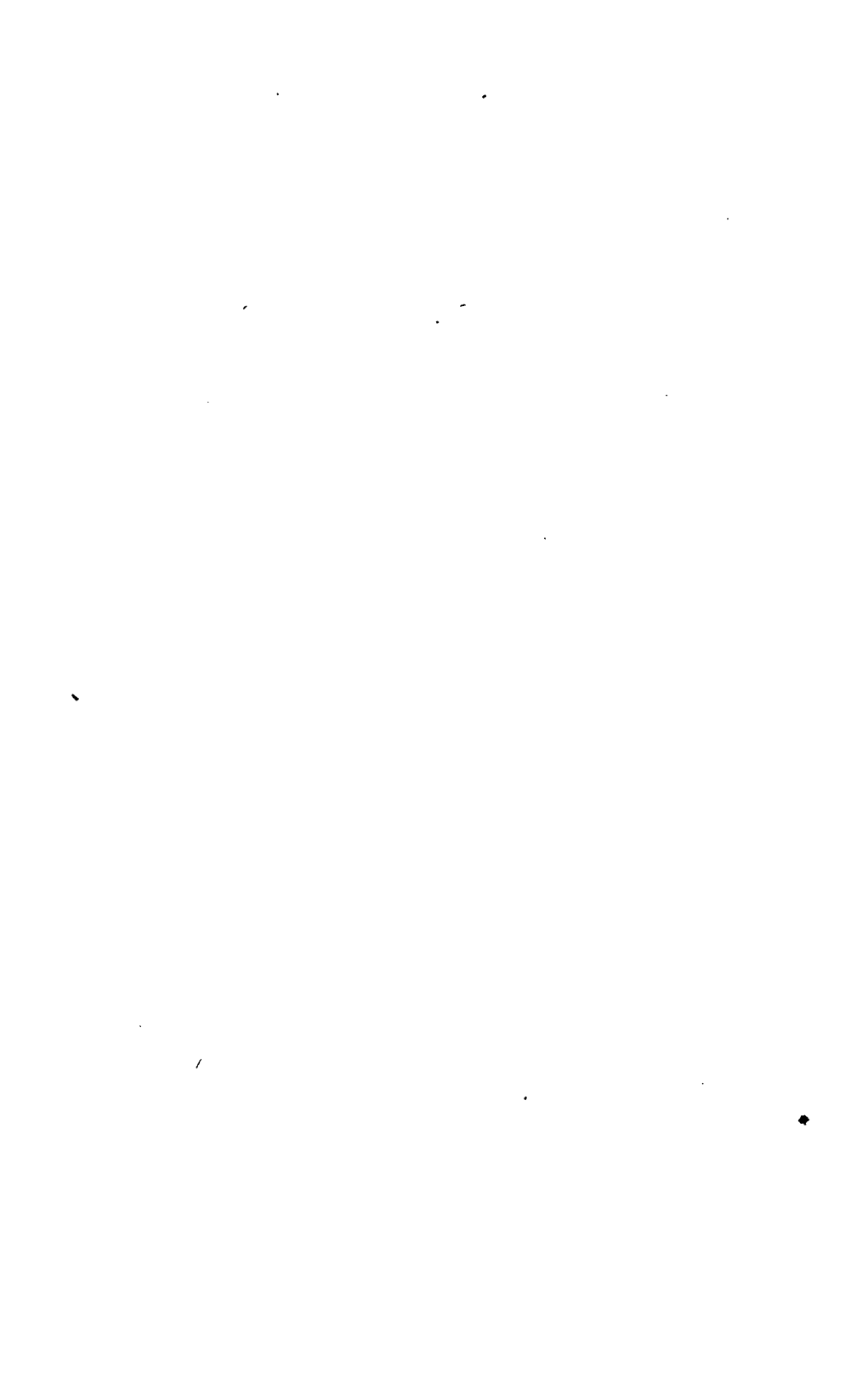
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HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS,

HOUSE OF REPRESENTATIVES,

ON

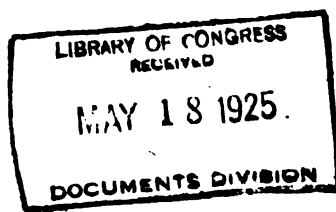
H. R. 22362,

MAKING APPROPRIATION TO PAY ESTHER ROUSSEAU
FOR HORSES KILLED UPON THE CHEYENNE
RESERVATION IN THE STATE OF
SOUTH DAKOTA.

DECEMBER 18, 1906.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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CLAIM OF ESTHER ROUSSEAU. 1

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., December 18, 1906.

The committee this day met at 11 o'clock a. m., Hon. James S. Sherman in the chair.

STATEMENT OF B. W. STEWART, ESQ., OF HURON, S. DAK., ACCOMPANIED BY C. E. RICHARDSON, ESQ., OF WASHINGTON, D. C.

Mr. BURKE. Mr. Chairman, Mr. Stewart is here, representing Mrs. Rousseau, named in the bill. It is a claim in the same sense as are some of the other Indian claims that come here.

The CHAIRMAN. Mr. Stewart, we will be very glad indeed to hear what you have to say in reference to the bill, and as the meeting was called for the express purpose of considering this bill, you will not be limited as to time. Take such time as you desire.

Mr. STEWART. Mr. Chairman and gentlemen of the committee, I desire to thank you for the courtesy of being permitted to present this matter to you. Mr. Richardson, of Washington, and myself appear here as attorneys for Esther Rousseau, who is the subject of this House resolution, or bill, No. 22362, which proposes to appropriate \$50,000 for the payment to her of damages incurred by reason of the killing of horses upon the Cheyenne River Indian Reservation during the year 1897.

Esther Rousseau is a mixed blood Sioux Indian, having all the rights of an Indian under the decisions of the courts of highest resort of the United States. She was the owner of a band of horses numbering about 1,000.

Perhaps I had better premise what I have to say about the number of horses, in order to give you gentlemen who are not perhaps acquainted with the western conditions an idea of the actual situation out there.

A person owns a band of horses or a herd of cattle, and they let them range on what was formerly known as the Great Sioux Indian Reservation, and let them roam on what is called the Cheyenne River and the Standing Rock Reservation. It is a tract of land as large as some of the States of the Union in the East, and these people range their cattle and horses there by putting a brand upon them. There is usually out in that country what is known as a spring round-up and a fall round-up; the spring round-up for the purpose of branding the new stuff, and the fall round-up for market. You can imagine people can not exactly determine the precise number of cattle and horses they own under conditions of that kind. They have that brand, and that is

theirs, and there is no way of getting an exact count in a territory so large as that of the exact number which may be in that brand.

Now, Mrs. Rousseau estimated that in 1897—and she got this estimate from the reports of the people whom she hired to look after these horses, and they would get their accounts of the number from the people scattered here or there over this range—and according to their count she had a herd of about 1,000 head of horses. I will refer later to certain parts of this record which will show that, to the best judgment of an inspector of the United States, she had at least 864 head of horses.

In 1897 the agent, Peter Couchman, in charge of the Cheyenne River Reservation, procured the services of an inspector, who made representations to the Indian Department and got an order to have a veterinarian appointed—one Doctor Elliot, residing at Aberdeen, S. Dak.—to go out on the ranch and count the brands of Mrs. Esther Rousseau, and for the purpose of investigating that brand to find out whether they were afflicted with glanders.

Elliot went out under authority of the Indian Department and made a report to the agent in charge, Mr. Couchman, declaring that glanders existed among that brand of horses and making the recommendation that the entire brand of horses—every horse on the reservation branded with the “R” brand—should be destroyed. Acting upon that recommendation, an order was issued out of the Indian Department, which has the signature of Mr. Ryan, the Acting Secretary, I believe, at that time, that all horses in the “R” brand be destroyed.

I want to call your attention in passing to the absolute lack of judgment and absolute lack of common sense in an order of that kind under the conditions that existed upon the reservation at that time. In this range country it is a matter of common knowledge, and you gentlemen must all be advised, no matter what State you reside in, that, under the conditions that existed in that range country, to make an order that all the horses of one brand be killed smacks of asininity, for the reason that these horses all range together. You go out on the reservation and you will find the “circle-dot” horse, the “triangle-bar” horse, the “S” horse, and any other horses that run on that range country, and you will find them all mixed up together.

Now, it is a matter of common knowledge that glanders is a disease that can not be cured or eradicated except by killing the horse or other animal afflicted with it. It is a highly infectious and contagious disease. If you had a “circle-dot” horse or a “triangle-bar” horse that is running with an “R” brand horse, and the “R” brand horse is afflicted with glanders, the other horse, though with a different brand upon it, is just as likely to get that disease as the “R” horse would be.

The CHAIRMAN. I suppose so.

Mr. STEWART. The horses, of course, do not know what brand is upon them, and they all run together out there, mixed up in these different brands of horses, running along possibly under the charge of a stallion or something of that kind. They are all mixed up together, and there is no possible way in which they can be separated except by cutting them out, and that is done in the spring and fall roundups.

This order which I referred to pays no attention to the other brands of horses which are upon that reservation, but simply singles out every horse branded with the "R," the Rousseau brand of horses, and orders them all to be killed.

This was done on the recommendation and report of one Dr. J. W. Elliot, of Aberdeen, S. Dak. I am not here to call names and make hard charges or anything of that kind upon the record, but I want the members of the committee and you, Mr. Chairman, to fully appreciate this fact, that while every advocate may possibly try to magnify the strength of his case, in this case I am going to confine myself to the strict record of the case in the Indian Department and the report of the case, and I am going to confine myself to the case made in this record by the Government itself.

Doctor Elliot is a horse doctor of no education, a man of some political strength in South Dakota, but absolutely without education except such as he has picked up in running a livery stable and sales stables in the city of Aberdeen, S. Dak. He has not the power, he has not the knowledge, nor did he have at the time he made this examination upon which this order was made, to make a scientific examination of a horse or anything else. He made this report; an order was made for the killing of the horses; and he makes the report that he got the order and went out and operated upon this brand of horses; that he has actually killed about 200 head.

That is what he admits having killed. The record shows that these horses were killed in this way: The agent gave orders to the Indian police and to riders, and they took their Winchesters and went out upon the reservation, and when they found an "R" horse they would shoot it. In the early days of the killing they left the horses lying there, or threw them into the Missouri River; but subsequently Agent Couchman comes to the Department and asks to be allowed a certain amount of money for the cremation of the horses, thinking in that way to aid in stopping the disease.

After the horses were killed by Elliot the Rousseaus came into the case. This order was made for the destruction of the entire brand of Rousseau horses, and these horses were killed without any opportunity ever being given to Esther Rousseau or anybody in her behalf to appear and give evidence or have anybody appear for them, or to have any veterinarian go out and make an examination; and the order was issued absolutely ex parte, and with no opportunity for her to be heard in any way, shape, or manner; and as a matter of fact it is in the record here, gentlemen, she did not know of the existence of the order until her horses commenced to be killed.

Mr. BURKE. Mr. Stewart, there is something in the record right at that point that might be proper to call our attention to. The requisition made for ammunition showing the wholesale way in which they expected to operate.

Mr. STEWART. Yes. I am glad you called my attention to that, because it is a rather significant thing in this matter that an application was made for the purchase of 1,500 Winchester cartridges, and it appears in the record here that authority was given to purchase 1,500 Winchester cartridges to go out and kill this Rousseau brand of horses, and that is one of the items that appears in the amount allowed by the Indian Department as one of the expenses in this

matter, that they were given this appropriation or allowance. It is evident that they would go out and whenever they should find an "R" horse, the rider or the Indian policeman would put a ball through it, and if a "circle-dot" horse was right alongside of it the "circle-dot" horse was immune.

Mr. McGUIRE. Was this range large enough that this "R" brand could be on what was termed the "R" brand ranch and at the same time be also in widely separated parts of the range?

Mr. STEWART. No; I can tell you; I have been in the cattle business myself for several years. You can talk about the "Seventy-three ranch," or the "Wade-Across ranch," or things like that, but in fact there is no distinctive range.

Mr. McGUIRE. I was in the cattle business for a number of years myself. There might be one brand, and at the same time they might range in a section of country where they might be 100 miles separated from each other, and one part of the range might be affected and the other part in no way affected.

Mr. STEWART. Yes; that might be true. The range of these horses was from the Moreau River, on the north, possibly up as far as Cannon Ball.

Mr. McGUIRE. What distance is that?

Mr. STEWART. One hundred and fifty to 200 miles, I think. It is farther than clear across the State of South Dakota from the Standing Rock Reservation, running up to the North Dakota line, and you run down south to the Nebraska line. We range cattle there, and you will find our cattle as far west as Pennington County, and as far south as Keyapaha County, Nebr.

Mr. McGUIRE. Then you say some of this brand might be affected in one section and the other part of the brand might be 100 miles away? It is rather a suggestion in your favor that the rest of that brand might not be affected.

Mr. STEWART. Yes. I propose to show to this committee before I get through that there never was any infection in any of it. Your proposition leads to that very point, that up here on the Missouri River, up near the Moreau River, there was no infection, and elsewhere, over in Pennington County, the "R" brand might be immune, even if there was any infection among those ranging on the Missouri River or the Moreau River. Then I am going to show by the testimony of the Government's own experts that there was no infection at all in this brand.

Mr. HOGG. It was evidently a fool order.

Mr. STEWART. Yes.

Mr. HOGG. Can not you get down to the evidence as to the number of horses that were killed and the value of the horses?

Mr. STEWART. That brings me right down to a proposition on which I want to be absolutely frank before the committee. I am making this case before the committee on the testimony of the experts for the Government, the only testimony that we have here, which is an admission—or would be under this bill in a court of law—an admission from Elliot, that he killed about 200 head. But you will see from the fact that the avenues of investigation were closed to us that it is almost impossible for us to tell how many horses were actually killed. Whenever one of these drivers or Indians found one of these "R" horses they shot it. Now, the number of horses that they

killed is locked up in the breasts of those people, and they do not even know themselves. Elliot admits killing about 200 head. Mrs. Rousseau says she has lost 495 head.

Mr. Hogg. How does she get that figure? By her round-up record?

Mr. STEWART. Yes. Tinker, an inspector, goes out and investigates this matter and estimates that there were 846 head in the herd, before the killing, and says there was a round-up made that was a clean round-up, as near as he can make out, and he then found 332. That is the best evidence that we have as to the number of horses killed. You can see that the avenues of investigation are practically closed to us.

Mr. Hogg. What are the dates of those two round-ups?

Mr. STEWART. Tinker's statement is that the first round-up, showing 864 head of horses, was in the fall of 1896.

Mr. Hogg. When was the next round-up?

Mr. STEWART. In the fall of 1897; he then picked up 332.

Mr. Hogg. What kind of a winter did they have?

Mr. STEWART. I am not advised as to that.

Mr. Hogg. You know sometimes they have hard winters and they kill off horses.

Mr. STEWART. We figure 10 per cent loss on cattle, but on horses it does not figure.

Mr. BURKE. I would like Mr. Stewart to proceed a little more in detail up to a certain point, and right at that point I believe you said 200 head had been killed, as shown by the report of Doctor Elliot. Then the Rousseaus began certain proceedings. Show what happened at that time, and what happened subsequently, and then come down to the other questions.

Mr. STEWART. I was going to take up first Doctor Elliot's report, in which he admits killing these horses. I take up first this report of Doctor Elliot, to whom I will pay my respects a little later, in which he says under date of July 30, 1897: "I have killed out of said bunch, which numbers between 600 and 700 head, about 200."

Now, Doctor Elliot, from the circumstances of the case, could not know how many horses he had killed, because he did not himself kill them. His evidence would not be admitted in any court of law, because he had hired these riders and Indians to go out and do it. He does not confine it to 200 head. He only admits that about 200 head were killed. Now if you gentlemen are satisfied, as the judge [Mr. Hogg] has said, that this was a fool order, and made without any reference to the equities of this case, I will quit that branch of the case.

We have here the report of Doctor Karn. When the Rousseaus first got into this matter and commenced to stir up some investigation about it, Doctor Karn was called by Couchman, the agent, and told to go out and investigate it. He reported that there was glanders in these horses; under the report dated November 27, 1897, he comes in and states that there was glanders in these horses.

Now, then, with that situation in existence, the Rousseaus come in and ask the Department to stop the killing of these horses. The Department thought the Rousseaus had made a sufficient case. They had filed a sworn petition in the Indian Department, and the Department made an order that one Corcoran, the veterinarian of the

Eighth Cavalry, under orders of the Secretary of War, be delegated to go out there and look into this brand. Secretary Wilson, of the Agricultural Department, appointed Doctor Tracy, who is now the chief inspector of the Bureau of Animal Industry at Fargo, to go out with Corcoran and make an investigation.

Mr. BURKE. The Secretary of the Interior called upon the Secretary of War and the Secretary of Agriculture, if I remember it, and asked if they would detail a competent veterinarian to visit this reservation and ascertain whether or not glanders existed in this brand of horses, and proceeding upon that request, the Secretary of War designated Doctor Corcoran, and Secretary Wilson, of the Department of Agriculture, designated Doctor Tracy?

Mr. STEWART. Yes; Doctor Tracy, of the Bureau of Animal Industry.

Mr. HOGG. What did they find?

Mr. STEWART. They found absolutely that this was the result of pernicious persecution; that there was no ground for the making of the order, and there was no glanders in these horses.

Mr. HINSHAW. What motive had the veterinarian for making such an order?

Mr. STEWART. It is shown that he was deceitful, and they attach a letter which shows the animus which, to a certain extent, was actuating him. I will get the report and let you see what it refers to.

I refer now to page 56 of the record, containing the report of Corcoran and Tracy, the people who, as you gentlemen will at once discern, could have had no possible connection with us and who made this investigation under the direct orders of the heads of their Departments, to wit, the Secretaries of War and Agriculture. Here is the record [reads]:

WEBSTER, S. DAK., November 27, 1897.

DEPARTMENT OF THE INTERIOR, UNITED STATES INDIAN SERVICE,

Cheyenne River Agency, S. Dak.

DEAR SIR: Under examination, locally and microscopically, I diagnose the horses marked with the R brand, on Cheyenne Reservation, S. Dak., property of one Mr. Rousseau, glandered.

Respectfully, yours,

L. C. KARN, V. S.,

Webster, S. Dak.

FORT YATES, N. DAK., April 4, 1898.

The SECRETARY OF THE INTERIOR,

Washington, D. C.

SIR: In compliance with instructions received through the Departments of War and Agriculture, we have the honor to report that we met at the Cheyenne River Indian Agency on March 17 and proceeded to the Rousseau Ranch, 40 miles south of that point, on the Cheyenne River, where the "R" brand of horses are located. We expected to find the brand still closely herded here, as they previously had been, to await our examination, but were informed that they had been scattered into small bands covering a territory of over 50 miles square. With the assistance of some Indian police and Rousseau's employees we had them rounded up and corraled as found by the riders daily, amounting in all to 376 head. These are all that could be found, and, from the most reliable information we could get, we believe that not more than 50 others exist. It was extremely difficult to gather these horses on account of previous examinations, killing of the leaders, etc., which caused the breaking up of herds into small bunches in a rough, broken country of the "Bad Lands" variety; consequently very difficult to find.

These horses, being range bred, were very wild, and while all seemed perfectly free from any disease, to comply strictly with instructions we had over 300 head roped by the front feet and thrown, critically examined, and marked with scissors brand. The ones not thrown were mares about to foal. We considered it an injustice to the owner, as well as inhumane, to subject them to such violence, having satisfied ourselves that there was no evidence of disease. Out of the 300 cast and examined 24 head were selected for the mallein test, consisting of all ages and animals that had been previously condemned by Doctor Elliot. Out of this number tested by mallein but 3 showed any reaction, these being low-conditioned saddle animals confined in a small log stable during test, with but poor forage, and showing not even infinitesimal external evidence of a glanderous nature. (Vide Mallein forms marked C, D, and E.) One, and the only one, that showed positive signs of glanders was an unbranded 5-months-old colt, which showed superficial symptoms of acute glanders, and which, we were informed, with its dam, had affiliated with neighboring Indian horses, two of which were condemned for chronic glanders by veterinarians that had preceded us, viz, Doctors Karn, South Dakota; Treacy, of Fort Meade, and Dalton, of Chicago.

This colt and its dam, a roan mare 7 years old, we had isolated and applied the mallein test without reaction in either case. (Vide Mallein forms A and B.) We afterwards destroyed the colt for post-mortem examination, and portions of the diseased tissue and pus are herewith submitted for microscopical examination by the Bureau of Animal Industry. The septum nasi was almost completely eaten away, but the lungs showed little, if any, appearance of glanders. The dam had a slight clear mucous discharge from the left nostril, without other symptoms. This mare was very wild and fought hard every time she was cast, as she had to be at each examination. Her temperature varied some, but nothing more than was consistent with her condition at the time owing to a state of excitement and exhaustion.

In undoubtedly sound horses we found a decidedly marked increase of temperature when the operation of catching and casting was protracted unusually. For instance, the first horse caught and cast out of bunch in corral in the morning would register normal temperature, the second would show a slight increase, and so on, till the last of the band caught in the evening has sometimes registered as high as 104.8, though undoubtedly free from disease. The territory over which the "R" brand range, commingling with upward of 4,000 or 5,000 horses of other brands and owners, extends from the Mereau River and its tributaries on the north to the Cheyenne River and its tributaries on the south, bounded on the east by the Missouri River and extending westward almost indefinitely; and as we have no doubt that glanders exists to a great extent among the numerous horses mentioned on the Cheyenne River Indian Reservation, we would earnestly recommend that later in the season (about the middle or end of June), when the grass is good and the mares have foaled and the usual distemper among colts has passed away, all horses within the reservation be thoroughly rounded up, and that we be authorized to employ a few expert riders and ropers, examine all horses so rounded up at different points, and destroy all found affected with glanders.

This is the only radical means we know of for eradicating this disease and doing justice not only to the residents of the Indian reservation, but to the State of South Dakota. This examination might be extended to the Standing Rock Reservation, where glanders has been detected by one of us (Corcoran) from time to time. Believing that you require a full report and an expression of opinion on the reports of preceding veterinarians employed by the Indian agent at Cheyenne River Reservation, we have the honor to respectfully state that, having read Doctor Elliot's report and sweeping recommendation for the destruction of all the "R" brand horses, it is evidenced to us by the condition in which we found them, by the information we had from reliable employees, unprejudiced and impartial in the matter, and by the letter of one Doctor Karns, respectfully submitted, acknowledging himself both cowardly and untruthful, we have come to the conclusion that neither one was, to say the least, reliable; and indications of a pernicious persecution pervade this whole matter.

We think it but just to mention that we were earnestly and energetically assisted in our investigations by Mr. J. K. Sechler, assistant farmer, Cheyenne Agency; by Mr. J. H. Sage, Okobogo, S. Dak., as well as by the Rousseau family and their employees.

Trusting that this report will be considered satisfactory by the Department, we have the honor to be,

Very respectfully,

RICHARD B. CORCORAN.

Veterinarian, Eighth Cavalry, U. S. Army.

ROBT. H. TRACY,

Veterinarian, Bureau Animal Industry.

That is the record given to the Department, signed by Doctor Corcoran, the veterinarian of the Eighth Cavalry, and Robert H. Treacy, veterinarian of the Bureau of Animal Industry, and they attach to this report the letter of Doctor Karn, which shows the animus which was actuating him.

Here is the letter which he wrote to the boss farmer of this reservation, and it is confirmed here in this record by the affidavit of a rider for Mrs. Rousseau, to the effect that he was present when Doctor Karn made his examination, and who says that Doctor Karn stated to bystanders when making the examination that he found no traces of glanders whatever, and there was no glanders in the herd. Then, after this report, he writes to this man Sechler, the boss farmer, who had evidently entertained him while he was out there. This is the letter [reads]:

OFFICE OF L. C. KARN, V. S.,

Webster, S. Dak., February 5, 1898.

MR. J. K. SECHLER,

Cheyenne River Agency, S. Dak.

DEAR SIR: No doubt you will imagine I have quite forgotten the kindness paid to me while on the reserve by you and Mrs. Sechler, but such is not the case; it has been merely a matter (as you might say) of neglect, and trust you will pardon. As in regards to Mr. Rousseau's horses, I could not help but send in the report I did, which no doubt you have heard ere this. In the first place, from local observation you know that from first sight the appearance of the horses were favorable, and probably I used a little deceit, which I know was not right, and after taking the temperature I found that I had got into a nest, and policy, I thought, was the better valor. My report was, the horses belonging to Mr. R. Rousseau and branded with the "R" brand I diagnose as glanders. I made five different tests of the serum I brought back with me, and in every case it proved to be glanders. I have all my slides belonging to the tests, which have undergone the microscopic examination. I took a field mouse and injected some of the serum into his body, and he died in twenty-four hours; then took the serum from the viscera of the same mouse and made an examination of the same and still found glanders, so I think I am justified in sending in my report as I have done. Well, I must close, as it is midnight, and trust that you are all well. With best respects to the family and yourself, and hoping to hear from you in the near future, I remain,

Respectfully, yours,

L. C. KARN.

There is the man upon whose report they make an order for the destruction of the entire brand of horses.

The CHAIRMAN. That is Mr. Karn that writes that?

Mr. STEWART. Yes, sir.

The CHAIRMAN. He is not the veterinarian under whose orders this herd was destroyed?

Mr. STEWART. As I stated a while ago, while you were out, after Doctor Elliot's report came in and he had killed these horses, the Rousseaus got to corresponding with the Department. Couchman got afraid of his position in regard to it, and he called in Doctor Karn, of Webster, and Doctor Karn and Doctor Elliot are the two men upon whom the entire proof rests, so far as the existence of glanders in the herd is concerned. The entire proof of that rests upon Elliot and Karn, while, on the other hand, as I have read from

the reports of Tracy and Corcoran, the two Government experts, they reported no glanders in the herd, and it was all a result of malicious persecution.

In addition to that, as I will come to it later, you will find a special report of a substitute, named Tinker, who finds the herd absolutely healthy and in good condition.

Mr. BURKE. There is a report also from Doctor Dalton?

Mr. STEWART. Yes; a report from a private veterinarian hired by Mrs. Rousseau; a professor in the veterinarian school in Chicago, hired by Mrs. Rousseau to go out there and look over the horses, and he reports that he could not find any glanders in the herd. And outside of that there are people who ran horses right alongside with them—Jeff Williams and Buck Sage—who said there was no glanders in the herd; and, in addition, there is a report here from the chiefs of the Sioux tribe, showing that they had never represented to the Department that there was glanders in the horses, and that they did not want any horse doctors to go out there to examine them, and did not want any money taken out of their funds to pay for their coming out there and condemning their horses.

Mr. McGUIRE. There seems to be duplicity there. But, aside from that, is there any evidence showing the qualifications of Doctor Karn as a veterinarian?

Mr. STEWART. Doctor Karn is dead; but there is a man who knew him, a man who was a graduate of the Toronto school, or McGill University; and if this committee desire it, I can prove by people well qualified to testify that Karn, while a graduate of that school, had let whisky get the best of him, and when he came out to that town he was absolutely unreliable.

Mr. BURKE. Tell how Doctors Tracy and Corcoran made the examinations, and how many days they were there, and what they did.

Mr. STEWART. They actually rode and cast 300 horses and examined every one of them.

Now, it is in evidence that we had about 332 head of horses. Corcoran and Tracy say that they threw and applied the Mallein test to 300 head of horses, and that they did not show any signs of glanders. They were out there a number of days, and they found evidences of distemper, but it was not glanders. It was not an incurable disease, such as would warrant any such order as this for the destruction of the herd.

Mr. ZENOR. Were those 300 all of the "R" brand?

Mr. STEWART. Yes, sir; and they have attached here to the report a statement of the temperature taken and describing them—horse So-and-so thrown, and the Mallein test is described. All that is described, but it would be a long proposition. The meat and marrow of it, however, is that there was no glanders, and it was a part of the persecution that the report was ever made.

Mr. HINSHAW. Those examinations were made on the horses that were left?

Mr. STEWART. Yes, sir.

Mr. BURKE. I want to get into the record somewhere the fact that over 200 head of horses were killed, and it was brought to the attention of the Rousseaus, and then the Rousseaus did something, to wit, brought in injunction proceedings. State what happened.

Mr. STEWART. Yes. While the record was in this shape the Rousseau people, immediately after they had learned about this killing and the proposed killing of all the rest of the herd, did not propose to lie there and take this kind of treatment; so they interested Senator Pettigrew, at that time one of the Senators from the State of South Dakota, and he asked that the matter be held up for a further investigation. It was upon that recommendation that the Secretary did hold it up and sent out Corcoran and Tracy, and they made this report.

In addition to that, the Rousseaus went into the State court of South Dakota and procured an order from the court there perpetually enjoining Mr. Couchman or any of his servants or employees in the future from killing any of that brand of horses; and that order still stands there, unchallenged by Mr. Couchman, the Indian agent, or anyone in his behalf. It is an absolute injunction, and since that time none of the horses have been killed.

Now, you have gotten pretty nearly all of this case.

Mr. ZENOR. What is the date of that?

Mr. STEWART. That injunction was in the spring of 1898.

Mr. BURKE. Give us some parts of Mr. Tinker's report. I think the members of the committee ought to know of Mr. Tinker.

Mr. STEWART. I think it would be good reading for them. Mr. Tinker makes this report on September 30, 1899—

Mr. BURKE. That is two years after?

Mr. STEWART. Yes.

Mr. HOGG. Is there any need for the taking down of the full report?

Mr. STEWART. No; I want to read only certain parts of it.

Mr. BURKE. One of the things I want to be brought out in the Tinker report is that he saw some of these horses that had been shot and had recovered.

Mr. STEWART. Yes. A number of these riders and Indian policemen, when they went out there, would shoot these horses and would not get them, and they would get away; and those horses, some of them, are now on the streets of Pierre to-day, hauling dray wagons, and they are all through the State, healthy and sound. You know that a horse suffering from glanders never recovers.

Mr. BURKE. They survived the shooting and the glanders both?

Mr. MCGUIRE. The agent and the doctor? [Laughter.]

Mr. STEWART. Yes. I will read from this letter:

CHEYENNE RIVER AGENCY, S. DAK.,

September 30, 1899.

THE SECRETARY OF THE INTERIOR.

SIR: According to instructions contained in your communication of June 28, 1899, I have the honor to report the result of my investigation of horses at the Standing Rock Reservation, and of those branded "R." owned by Mrs. Esther Rousseau, of the Cheyenne River Reservation, said to be suffering with glanders.

The Rousseau home ranch is located about 45 miles from the Cheyenne River Agency, on the Cheyenne River. Most of the horses owned by Mrs. Esther Rousseau (branded "R") are wild range horses, much wilder than the average range stock. The alleged reason for their being so wild is that they have been rounded up, roped, and thrown by veterinary surgeons so often, and so many of them and their leaders shot—many killed and some wounded—on the open prairie that upon the approach of a person they start at once to get out of the way. They roam in small bands, much smaller than they did before so many of them were killed, and are scattered over a very large section of country.

* * * * *

Mr. Rousseau informed me that the fall before the veterinary surgeons began to shoot the horses branded "R" he rounded up 864 horses; since that time he has never been able to round-up 400 horses bearing their brand; all the range horses, saddle horses, and work animals put into the corral for me to inspect was 332 branded "R" or "R—"; there were 13 other horses rounded up with them bearing various brands, making a total of 345 horses. This may or may not be all the horses they own or bear their brand.

All the horses I saw were very wild, but they were all fat, in good condition, and seemed to be healthy; none of them were running at the nose, neither did any of them have farcy buttons; all appeared to be sound horses, and showed no signs of having the glanders or any other disease.

I saw four animals that had been shot by the Indian police by order of the veterinary surgeon; one was a gray horse 7 years old; he was shot through the right hip, but managed to get away before he was killed; his wound healed up and he seems to be sound.

A gray mare was shot through the rump; the ball ranged along her side almost the whole length of her body; she escaped and recovered; she had no discharge from the nose or farcy buttons, and appears to be free from glanders or any other disease.

One 3-year-old colt was shot under the neck; the ball came out through the lip; the ball cut the base of the tongue in such a manner that the tongue hangs out of its mouth all the time; he managed to get away, and recovered; he shows no symptoms of any disease.

A gray gelding was shot twice, once through the left stifle; the ball went in from in front and came out behind. The other ball went through his left hock. He broke away, and recovered. It is said he was given the mallein test by Doctor Tracy, of Fort Meade, and Doctor Dalton, of Chicago, and showed no symptoms of glanders.

* * * * *

As regards the Rousseau horses branded "R" and "R—," and the horses that graze on the range with them in the Cheyenne River country, I do not consider that I am expert enough to determine whether they have the glanders or not; they all appear to be healthy.

I give you that for the purpose of showing what was done with these horses before the investigation. Then he goes on and shows that he saw this bunch in the corral, and there were no symptoms of glanders in them. He is a very careful man. He says he is not a doctor and does not know much about glanders. You, gentlemen, have common sense and keenness of perception enough to know that if a horse has glanders anybody can tell it.

Mr. BURKE. The claim that there is glanders upon that reservation has not been made since?

Mr. STEWART. Absolutely not. The Bureau of Animal Industry has given us all kinds of quarantine laws out there, gentlemen, but they have never troubled our horses. We are quarantined for scabies and we have had the Texas itch out there, but our horses seem to be immune from the quarantine regulations; and from the time when they killed these horses to the present time we have never had any charge of glanders, and especially after Mr. Couchman was relieved of his duties in charge of this reservation.

Mr. HINSHAW. Is there any proof in this record of the value of these horses that were killed?

Mr. STEWART. There is not; and I want to take that up with you. There is not any proof of that, aside from the affidavit of Doctor Dalton, this veterinary surgeon who does not qualify and lay a proper foundation to make his evidence particularly valuable before this committee, and one Jeff Sage, that in 1897 these horses were worth about \$40 or \$45 a head.

Now, as a matter of fact, the history of this brand is easily ascertainable. The Rousseaus were the first to introduce in their horses

and put on the range the habit of taking their "she-stuff" and sending in the best stallions. Do not take this simply as the plea of the advocate; but the fact is they have succeeded in grading up their bunch of horses until they are the best grade of horses out there on the range.

Mr. STEPHENS. What do they render for taxes?

Mr. BURKE. This claimant is an Indian.

Mr. McGUIRE. They do not pay taxes.

Mr. HINSHAW. There is no proof of their age?

Mr. STEWART. No; except they were an ordinary bunch of horses. The ordinary habit is to take them out when they get marketable and sell them.

Mr. STEPHENS. What was the market price of horses?

Mr. STEWART. The market price, as they indicate, was from \$40 to \$45.

Now I come to the claim. That is well taken, and the number of lawyers that I see here leads me to believe you will hold the same doctrine, that it is not for the agent to go out there and kill our horses and then come in and say, "You shall take the market price at that time." And it is not for me to come in and take your horses and convert them to my own use and say, "You shall take the market price at that time."

Mr. STEPHENS. Do you think the Government should be compelled to pay conversion damages?

Mr. STEWART. No; but what is the actual value? It is the highest value between the time of conversion and the time the jury sits on the verdict. That is the common law, and the statute law of my own State. These horses are selling in the market at Pierre at from \$100 to \$125, around. They are worth it. Therefore I contend that when these people come out and kill our horses, it is not for them to say what market price we shall take, but they should pay the highest market price.

Mr. STEPHENS. Does not the law establish this principle, that you would be entitled to the market value of your stock at that time, with the legal interest in the State?

Mr. STEWART. The common law, as it finds expression in the Field statutes, is that you have the option of taking either one of these two horns of the dilemma that you desire, and for the conversion you are entitled to the highest market value between the time of conversion and the time the jury sits on the question of damages, and that you are enabled to show it.

Mr. HOGG. This value was fixed in the market. What was the value of horses on the range?

Mr. STEWART. That is what we are taking. The value on the range was from \$40 to \$45.

Mr. HOGG. They are not Indian horses, then?

Mr. STEWART. You know in 1896 and 1897 horses were a drug on the market.

Mr. STEPHENS. You can get them at \$5 a head in Arizona and New Mexico.

Mr. STEWART. Yes; as a matter of fact they brought some horses in there and gave them away, from Idaho.

The CHAIRMAN. You are not a sworn witness. You are making an argument as an attorney. There is no proof in this case as to the value of this property.

Mr. STEWART. I appreciate that.

The CHAIRMAN. There is no proof in this case other than the evidence of two witnesses, to whose testimony little weight is given as to the value of the property. There is no testimony in the case as to the number of horses destroyed; except the statement that it was about 200, but you claim much more. There is no evidence of that; but there is evidence that in the fall before the owner rounded up 864 horses, and since then they have not been able to round up more than 400. But that is not proof.

Mr. STEWART. I appreciate it.

The CHAIRMAN. So is it not your proper course—the fair course for this claimant as well as the Government—that you be permitted to go to some court of proper jurisdiction, and that you be authorized there to prove your claim against the Government?

Mr. STEWART. Mr. Chairman, you have struck the keynote there. That I can not deny. You have been frank with me and I will be frank with you. As a proposition I am speaking to this bill as it exists before you at the present time. I am showing as an advocate the strongest case I can truthfully present under the record as it exists. If you gentlemen say here that this proof is not sufficient, that this is a case where a court should be given jurisdiction to try and determine the amount of damages, I could not reasonably find any fault with it.

The CHAIRMAN. You will have to admit, Mr. Stewart, that there is nothing here on which we could render a fair judgment. It would be largely guesswork.

Mr. STEWART. I admit that.

The CHAIRMAN. It is perfectly clear to me, however, on your presentation of the case, that the Government ought to compensate these people for the destruction of their property. The question, then, is, How much property was destroyed?

Mr. STEPHENS. Is there any statute of limitations that ought to be removed?

Mr. STEWART. No, sir.

Mr. RICHARDSON. I suggest to Mr. Stewart that perhaps in a couple of weeks we could get all the information needed for the satisfaction of this committee and in the Senate, and it might save a delay of the case in the Court of Claims. The claimant is old, the witnesses are likely to die, and she herself is likely to die. That testimony can probably be brought to your satisfaction in the next two weeks.

The CHAIRMAN. But, Mr. Richardson, we are not a trial court. Congress is not a trial court, and the committees are not.

Mr. RICHARDSON. If you will take the evidence of the Government as to the number and value—

The CHAIRMAN. Of course I have not examined the record, but from Mr. Stewart's argument it appears there is very little evidence on the question of what the award should be. There seems to be evidence as to the reasonable liability of the Government, but as to how much the Government should pay there is very little.

Mr. HOGG. Why was not this matter brought to the attention of Congress before? It has been about ten years.

Mr. STEWART. I anticipated that question, gentlemen. The situation was this: Mrs. Rousseau is an Indian. She talks through an interpreter, except that she can talk a little broken English. She

first retained for the purpose of the injunction a firm of attorneys at Pierre, Shunk & Hughes. They took the matter up and did obtain an injunction, but they have neglected the matter and have worked along without coming to Congress, apparently not knowing that Congress had jurisdiction and not knowing what they should do.

Mr. CURTIS. Did they present the claim to the Indian Office?

Mr. STEWART. Not except in the line of stopping the further killing of their horses. Nothing has ever been put in the form of a claim for the payment of money, and apparently Shunk & Hughes did not know anything about this method of getting at this matter.

Mr. BURKE. I think, Mr. Stewart, that they did, but that it was a matter of negligence on their part, because they have talked with me about it for the last eight years, on several occasions, and said that they had this case and had been retained and expected to bring it before Congress. But I understand from Mrs. Rousseau that they did not bring it, although she supposed they were looking after it all the while.

Mr. STEWART. The fact remains that it has never been brought. Mrs. Rousseau subsequently came in last summer to our office and asked our firm to take up this matter, and after we had become satisfied that Shunk & Hughes were willing to drop out of the case and had not done anything we said we would take it.

Mr. BURKE. In bringing this matter to the attention of Congress and in introducing this bill, I had in mind the idea that the proper tribunal to determine the damages in this case was the Court of Claims, and for the purpose of bringing it before Congress I introduced the bill which is before you. I did not know at that time just what the proofs would be, and in introducing it in this form I knew it would be very easy to change it to a resolution sending it to the Court of Claims; and I also found that the practice of Congress here was that nearly all of these claims that do go to the Court of Claims by resolution originate with a bill, as a general thing.

Mr. HINSHAW. They could proceed to prove their testimony at once if this were referred to the Court of Claims?

Mr. BURKE. Yes.

Mr. HOGG. Why not make a motion to refer it to the Court of Claims?

Mr. BURKE. Yes. I suggest that this be referred to a subcommittee, to be constituted of, say, Mr. Hogg, Mr. Stephens, and Mr. Burke, with power to formulate a bill to refer the matter to the Court of Claims, and to report such a bill.

Mr. HOGG. Is there a limitation about this?

Mr. BURKE. This being a tort, no limitation runs against it.

The CHAIRMAN. I thought it should be so fixed that the Government under no circumstances should be made to pay interest.

Mr. HOGG. But I do not think the Government should be allowed to take advantage of any limitation in a case like this. It is an outrage.

Mr. STEPHENS. Why decide against ourselves as to the responsibility of the Government in the matter? It is like a plea of guilty in a court—

Mr. HOGG. What is the use of raising that question in the resolution? The court will determine that.

Mr. STEPHENS. Probably so.

Mr. HOGG. It will be necessary to determine the liability of the Government.

Mr. BURKE. I will make a motion, Mr. Chairman, that a subcommittee, composed of Mr. Stephens, Mr. Hogg, and myself, be appointed, and that I be authorized to report a resolution referring this case to the Court of Claims in the usual form.

The CHAIRMAN. It ought to be a bill. You do not want to refer it under the Bowman Act simply?

Mr. BURKE. No; report a bill directing the Court of Claims to hear and determine and render judgment, and if the statute of limitations runs—

Mr. STEPHENS. I would not be willing to waive that.

Mr. HOGG. It should be put in, anyway.

Mr. BURKE. I make that motion. You understand that there will be a limitation as to interest?

The CHAIRMAN. The bill should be so drawn that there will be no covering of the item of interest.

Mr. STEWART. I did not catch that, Mr. Chairman.

Mr. BURKE. The Government never pays interest on a claim. I make that motion.

The CHAIRMAN. Very well. All who are in favor say Aye; those contrary, No. The ayes seem to have it; the ayes have it, and the motion is carried.

Thereupon, at 12 o'clock noon, the committee adjourned.

[H. R. 22362. Fifty-ninth Congress, second session. In the House of Representatives December 13, 1906.]

Mr. BURKE, of South Dakota, introduced the following bill; which was referred to the Committee on Indian Affairs and ordered to be printed:

A BILL Making an appropriation to pay Esther Rousseau for horses killed upon the Cheyenne Indian Reservation, in the State of South Dakota.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of fifty thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying Esther Rousseau for four hundred and ninety-five horses belonging to her and unlawfully destroyed and killed upon the Cheyenne Indian Reservation, in the State of South Dakota, during the year eighteen hundred and ninety-seven, by the United States Indian agent in charge of said Indian reservation.

DEPARTMENT OF THE INTERIOR,
Washington, December 15, 1906.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS.
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your communication of the 5th instant, requesting copies of all letters, reports, and papers in connection with the killing of certain horses on the Cheyenne River Reservation, in South Dakota, alleged to have been diseased with glanders, in the year 1897, and belonging to one Rousseau.

In response I transmit herewith a copy of a report from the Acting Commissioner of Indian Affairs, dated the 13th instant, transmitting copies of letters, reports, and papers on the subject in the records of his Office. I also transmit

herewith copy of a letter dated March 11, 1898, from the Secretary of Agriculture, copy of Indian Office report of March 14, 1898, and copy of Department reply of March 15, 1898, to the Secretary of Agriculture, these papers being referred to in the Indian Office report of the 13th instant as "Numbered 11724—1898."

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

DECEMBER 13, 1906.

THE SECRETARY OF THE INTERIOR.

SIR: I have the honor to acknowledge the receipt of a letter from Hon. J. S. Sherman, chairman of the House Committee on Indian Affairs, dated December 5, 1906, requesting copies of all letters, reports, and papers in connection with the killing of certain horses on the Cheyenne River Reservation, in South Dakota, alleged to have been diseased with glanders, in the year 1897, and belonging to one Rousseau, referred to this Office for report on the 6th instant.

In answer I respectfully transmit herewith copies of all letters, reports, and papers on the subject in the records of this Office. It appears that the paper No. 11724—1898 was returned to the Department by this Office on March 14, 1898, and therefore no copy of that is furnished.

I return Mr. Sherman's letter.

Very respectfully,

C. F. LARRABEE,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR, UNITED STATES INDIAN SERVICE.

Cheyenne River Agency, S. Dak., March 27, 1897.

THE COMMISSIONER OF INDIAN AFFAIRS, Washington, D. C.

SIR: I have the honor to respectfully represent that there are a number of horses on this reservation diseased with glanders, notwithstanding that strenuous efforts have been heretofore made to stamp it out. I thought as there had been so much care and pains taken by the veterinary to have no diseased horses escape that we would be free from the disease; but I have learned, from a source which I think reliable, that the herd where we had reason to believe the glanders existed most was run off and kept out of the way by moving from place to place to escape the veterinary while here. And now I frequently learn of the disease making its appearance in different parts of the reserve amongst the horses owned and kept in small numbers, while heretofore it existed principally amongst the larger herds, so that the Indians quite generally (who are owners of the small bunches of horses) are becoming considerably alarmed at its continued prevalence and spread.

Therefore I think it advisable to have the presence of a veterinary, who should be allowed sufficient time to thoroughly scan the reserve and see that by no device or strategy any diseased animals escape.

It should be considered that in consequence of the large number of horses supposed to be so diseased, and of the large area over which they are scattered, considerable time will be required to effectually and thoroughly accomplish the work of stamping out the disease.

And therefore I respectfully request authority to employ a competent veterinary surgeon for a period not exceeding forty days, at the rate of \$10 per day, for the purpose of traveling over the reservation to inspect horses belonging to Indians and white persons thereon with a view to killing all horses that may be found suffering with the glanders and to check the spread of the disease.

And also that the surgeon so employed be allowed transportation to and from the agency to the amount of \$8, and for expenses while traveling over the reservation and actually employed in said work at the rate of \$1 per day.

As some opposition on the part of white men married to Indian women was heretofore met with in the progress of this work, I would respectfully further request that I be given authority to destroy all horses found on the reservation which may be infected, without any reference to compensation whatever for such destruction.

Very respectfully,

PETER COUCHMAN,
United States Indian Agent.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 6, 1897.

The SECRETARY OF THE INTERIOR.

SIR: In view of the statement made in the inclosed communication from the United States Indian agent at the Cheyenne River Agency, S. Dak., and in compliance with the request contained therein, I have the honor to recommend that authority be granted said agent to expend a sum not exceeding \$448, or so much thereof as may be absolutely necessary, in the following manner, viz:

Employment of a competent veterinary surgeon, at not to exceed \$10 per day while actually engaged, to travel over the reservation and inspect stock belonging to the Indians and to white persons residing on the reservation to the end that all horses suffering with the glanders may be killed and the spread of the disease checked.....	\$400
Payment for transportation of the surgeon to be employed to and from the agency at not to exceed	8
Payment of expenses of said surgeon while traveling over the reservation at not to exceed \$1 per day.....	40
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Provided, however, that the agent be granted specific authority from the Department to destroy, in the most humane manner, all stock found on the reservation, whether belonging to the agency, the Indians, or to white persons, where the same may be infected or suspected of being infected, in order to check the spreading of and to effectually stamp out the said disease, but no promise of compensation for stock so destroyed to be made to any person; payment therefor to be made from the appropriation, "Support of Sioux, different tribes, subsistence and civilization, 1897."

In this connection I would respectfully add that similar authority was granted in Department letter of April 3, 1898.

Very respectfully,

D. M. BROWNING, *Commissioner.*

DEPARTMENT OF THE INTERIOR,
Washington, April 9, 1897.

The COMMISSIONER OF INDIAN AFFAIRS.

SIR: In compliance with the recommendation contained in your communication of the 6th instant authority is hereby granted for the agent at the Cheyenne River Agency, S. Dak., to expend a sum not exceeding \$448, or so much thereof as may be absolutely necessary, for the employment of a competent veterinary surgeon, at not to exceed \$10 per day while actively engaged, for not more than forty days, and for his transportation and traveling expenses while so employed, as specified in your letter, so that he may inspect all stock on the reservation, whether belonging to Indians or white persons, to the end that all horses suffering with the "glanders" may be killed and the spread of the disease checked. The agent is also granted authority to destroy, in the most humane manner, all diseased stock, whether belonging to the agency, Indians, or white persons residing on the reservation, where the same may be infected or suspected of being infected, in order to stamp out said disease, as requested in the agent's letter herewith returned; payable from funds applicable. But no promise of compensation for stock so destroyed shall be made to any person.

Very respectfully,

THOS. RYAN,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR. OFFICE OF INDIAN AFFAIRS.

Washington, April 14, 1897.

PETER COUCHMAN,

*United States Indian Agent,**Cheyenne River Agency, S. Dak.*

SIR: You are hereby advised that authority has been granted for you to expend a sum not exceeding \$448, or so much thereof as may be absolutely necessary, as follows:

Employment of a competent veterinary surgeon, at not to exceed \$10 per day while actually engaged in the performance of his official duties, to travel over the reservation and inspect horses belonging to Indians and white persons thereon, to the end that all horses suffering with the glanders may be killed and the spread of the disease checked.....	\$400
Transportation of said surgeon to and from the agency, at not to exceed...	8
Expenses of said surgeon while traveling over the reservation in the discharge of his official duties, at not to exceed \$1 per day.....	40
	<hr/> 448

Authority has also been granted for you to destroy, in the most humane manner, all diseased stock, whether belonging to the agency, the Indians, or white persons residing on the reservation, where said stock may be infected with the glanders, or suspicion of being infected, in order to stamp out said disease, but no promise of compensation for stock so destroyed shall be made to any person.

Very respectfully,

THOS. P. SMITH,

Acting Commissioner.

CHEYENNE RIVER AGENCY, S. DAK., July 30, 1897.

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

SIR: I have the honor to submit the following report relative to the condition of horses on this reservation which I have been called to examine by the United States Indian agent, Peter Couchman. I find glanders in every part of the reserve where the R brand, which is the Rousseau brand, has been sold or where said Rousseau horses range. I also find that 9 out of every 10 horses ranging with the Rousseau horses belonging to other parties are diseased and I have destroyed them. This is the first time I have been able to gather all the Rousseau horses and make a thorough examination. I have killed out of said bunch, which numbers between 600 and 700 head, about 200. I have learned from good authority that this disease has prevailed in this bunch for the last twenty years, and if it is not checked by destroying the entire brand of Rousseau horses it will be only a question of a few years when there will not be a horse on this reserve that will be free from this disease.

I will admit that it looks like a hardship to destroy so large a number of horses belonging to one person, but I gave him the privilege of calling upon any other competent veterinarian to examine them for the purpose of satisfying himself that there is no mistake or doubt as to all of his horses being infected with the disease, and if I had been able to round them up earlier I could not have done otherwise than to have proceeded with the slaughter. It has been reported, and I have reason to believe, that these horses have been "switched" from place to place for the purpose of avoiding inspection, and under the circumstances it was impossible to get at them any sooner.

I therefore condemn and recommend that the entire brand known as the "R" brand and belonging to Rousseau be killed.

Very respectfully,

J. W. ELLIOTT.

DEPARTMENT OF THE INTERIOR. OFFICE OF INDIAN AFFAIRS.

Washington, August 24, 1897.

PETER COUCHMAN,

United States Indian Agent, Cheyenne River Agency, S. Dak.

SIR: I inclose herewith a communication from J. W. Elliott, dated Cheyenne River Agency, S. Dak, July 30, 1897, and addressed direct to this office, recommending that all horses bearing the "R" brand on the reservation under your charge and belonging to one Rousseau be killed for reasons stated.

Mr. Elliott's letter is referred to you for your information and report.

In this connection your attention is invited to office letter of April 14, 1897, wherein you were advised that authority had been granted you by the honorable Secretary of the Interior "to destroy in the most humane manner all diseased stock, whether belonging to the agency, the Indians, or white persons residing on the reservation, where said stock may be infected with the glanders or suspicion of being infected, in order to stamp out said disease; but no promise of compensation for stock so destroyed shall be made to any person."

As Mr. Elliott reports the diseased stock of said Rousseau on the reserve, the authority as granted by the Department would seem to cover the case in question.

Return Mr. Elliott's letter with reports of your views and actions in the matter.

Very respectfully,

THOS. P. SMITH,
Acting Commissioner.

CHEYENNE RIVER AGENCY, S. DAK., *September 6, 1897.*

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

DEAR SIR: Replying to office letter, I have the honor to state: Since Doctor Elliot's report to you, dated July 30, 1897, Mr. Rousseau has procured, at his own expense, the services of an army veterinary from Fort Mead, one Doctor Treacy.

After making his investigation, this Doctor Treacy called on me and reported that, in his opinion, the "R" brand—that is, the Rousseau horses—were healthy.

Now, from all the information I have been able to gather since I have been here, both on and off the reservation, I am of the opinion that Doctor Elliot's report is the correct one. I know Doctor Elliot, both from common report and from my personal knowledge of him, to be eminently well qualified to report on cases of this kind.

Now, inasmuch as these doctors disagree, I would recommend that in case you have a veterinary on whose judgment you can rely you send him out to make a further examination, either associated with Doctor Elliot or alone, as you may see fit.

In case you have no such man I would suggest that L. C. Karn, V. S., of Webster, S. Dak., who is a resident of this State and who has the reputation of being a competent veterinary, be called in to make a further report on the case, either in consultation with Doctor Elliot or alone, as your judgment may dictate.

There is much property involved, and as long as there is a doubt or question as to the condition of the horses I would recommend this course.

Very truly,

PETER COUCHMAN,
United States Indian Agent.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, October 6, 1897.

The SECRETARY OF THE INTERIOR.

SIR: From the inclosed correspondence it appears that "glanders" still exist among horses on the Cheyenne River Reservation, S. Dak., but in view of the fact that J. W. Elliott, veterinary surgeon, and Doctor Treacy, an army veterinary surgeon from Fort Mead, disagree as to glanders existing among horses on said reservation stamped with "R" brand and belonging to one Rousseau, I have the honor to recommend that authority be granted for the United States Indian agent at the Cheyenne River Agency, S. Dak., to expend such sum as may be absolutely necessary in the employment of L. C. Karn, veterinary surgeon, of Webster, S. Dak., at lowest obtainable rate, not to exceed, however, \$10 per day and traveling expenses, in going to the reservation, while on the reserve in the discharge of his official duties, and in returning to his home, in order that said

surgeon may make a careful examination of all horses on the reservation stamped with the brand "R" and belonging to said Rousseau, and provided Surgeon Karn is of same opinion as expressed in report of Doctor Elliott (herewith transmitted) that the agent take immediate steps to destroy in the most humane manner the entire herd of horses stamped with the "R" brand and belonging to said Rousseau, to the end that said disease may be effectually stamped out, but no promise of compensation for stock so destroyed to be made to said Rousseau or any other person, payment therefor to be made from appropriation "Support of Sioux, different tribes, subsistence and civilization, 1898."

Very respectfully,

A. C. TONNER, *Acting Commissioner.*

DEPARTMENT OF THE INTERIOR,
Washington, October 7, 1897.

The COMMISSIONER OF INDIAN AFFAIRS.

SIR: In compliance with the recommendation contained in your communication of the 6th instant, authority is hereby granted for the United States Indian agent at the Cheyenne River Agency, S. Dak., to expend such sum as may be absolutely necessary in the employment of L. C. Karn, veterinary surgeon, of Webster, S. Dak., at lowest obtainable rate, not to exceed, however, \$10 per day and traveling expenses in going to the reservation, while on the reserve in the discharge of his official duties, and in returning to his home, in order that said surgeon may make a careful examination of all horses on the reservation stamped with the brand of "R" and belonging to one Rousseau, supposed to be infected with glanders, and provided Surgeon Karn is of the same opinion as expressed in report of Doctor Elliott (herewith), for the agent to take immediate steps to destroy, in the most humane manner, the entire herd of horses stamped with the "R" brand and belonging to said Rousseau, to the end that the disease may be effectually stamped out; but no promise of pay for stock so destroyed to be made to said Rousseau or any other person, payable from funds applicable.

Very respectfully,

C. N. BLISS, *Secretary.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, October 13, 1897.

PETER COUCHMAN,

United States Indian Agent, Cheyenne River Agency, S. Dak.

SIR: In view of the statement made in your report of September 6 last, you are hereby advised that the honorable Secretary of the Interior has granted you authority to expend such sum as may be absolutely necessary in the employment of L. C. Karn, veterinary surgeon, of Webster, S. Dak., at lowest obtainable rate, not to exceed, however, \$10 per day and travelling expenses in going to the reservation, while on the reserve in the discharge of his official duties, and in returning to his home, in order that said surgeon may make a careful examination of all horses on the reservation stamped with the brand "R" supposed to be infected with glanders, and belonging to one Rousseau, and provided Surgeon Karn is of same opinion as expressed in report of Doctor Elliott, dated July 30, 1897, that you take immediate steps to destroy, in the most humane manner, the entire herd of horses stamped with "R" brand and belonging to said Rousseau, to the end that said disease may be effectually stamped out; but no promise of pay for stock so destroyed to be made to said Rousseau or any other person.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

CHEYENNE RIVER AGENCY, S. DAK.,
November 30, 1897.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

SIR: I have the honor to transmit herewith the report of L. C. Karn, veterinary surgeon, of Webster, S. Dak., relative to the result of his inspection of the "R" brand of horses on this reservation, from which it will be observed that he

pronounces the entire herd of said horses as being glandered. In this connection I desire to state, in view of said veterinary's report and in order to carry out the instructions contained in your letter of October 13 last, relative to this matter, that a very considerable expense will necessarily be incurred to properly dispose of so large a number of carcasses. Objection would be urged—and well taken, I think—to their being dumped into the Missouri River, or any other stream, so that burial or cremation must be resorted to, and I believe the latter would be the more effective, though perhaps a little more expensive than the former. Moreover, the former would be almost impracticable at this season of the year, when the ground is frozen so hard as it is now.

In either case quite a considerable amount of labor will be involved, besides requiring a large quantity of wood in the event of cremation, which, however, can be purchased from Indians at \$4 per cord. I would therefore respectfully recommend that I be authorized to expend in the purchase of wood and labor, for the purpose of cremating the said "R" brand of condemned horses, a sum not exceeding \$1 per head for each animal so destroyed.

I also request that I be authorized to expend the further sum of \$24 in the open-market purchase of 1,500 Winchester .44-caliber, central-fire cartridges, for use in shooting the condemned horses. These cartridges will be required in either event, whether burial or cremation is resorted to, in addition to those asked for in my annual estimate, for use of police and in the slaughter of beef cattle, during the current fiscal year.

Very respectfully,

PETER COUCHMAN,
United States Indian Agent.

CHEYENNE RIVER AGENCY, S. DAK.,
Webster, S. Dak., November 27, 1897.

DEAR SIR: Under examination locally and microscopically, I diagnose the horses marked with the "R" brand, on Cheyenne Reservation, S. Dak., property of one Mr. R. Rousseau, glandered.

Respectfully, yours,

D. C. KARN, V. S.,
Webster, S. Dak.

CHEYENNE RIVER AGENCY, S. DAK., *December 3, 1897.*

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

SIR: I have the honor to inclose herewith a communication, which I am just in receipt of, from L. C. Karn, veterinary surgeon, of Webster, S. Dak., relative to microscopical tests and work done by him for the purpose of ascertaining whether or not the "R" brand of horses on this reservation are diseased with the glanders, and for which tests so made, and for work incidental thereto he presents the inclosed account and claims pay for five days' labor, at \$10 per day, amounting to \$50—this in addition to the thirteen days, at same rate, for work in this connection while on the reservation, and reported in my report of irregular employees for the month of November last. I therefore respectfully submit the said account to your office for consideration and such action as may be deemed necessary in the premises. I make no recommendation in this matter, for the reason that I informed Doctor Karn that he would be allowed \$10 per day for the time actually employed on the reservation in making the necessary examination, and presumed that the thirteen days claimed by him covered all time for professional service in this connection.

Very respectfully,

PETER COUCHMAN,
United States Indian Agent.

WEBSTER, S. DAK., *November 30, 1897.*

MR. PETER COUCHMAN,
Agent, Cheyenne River Agency, S. Dak.

DEAR SIR: I trust you have received my report ere this and that it will prove satisfactory to you. No doubt you may imagine I have taken a long time in reporting my diagnosis, but the disease has undergone five different

tests, which have taken a great deal of work and time; hence the delay. tests are as follows:

(1) Local observation and examination of diseased horses. (2) Discharge from nostril under microscope. (3) Culture of discharge under microscope. (4) Discharge injected into a field mouse and examination of viscera; inspect the same. (5) Glands taken from mouse and serum of the same cultured and examined under microscope and result reveals glanders.

I also inclose my extra account for work, which in all is five days of actual work. This work that I have done microscopically has been a tedious task, and I think I am entitled to my extra pay. With kind wishes I remain,

Respectfully, yours,

L. C. KARN

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 13, 1897

THE SECRETARY OF THE INTERIOR.

SIR: Under date of October 7, 1897, the Department granted authority the United States Indian agent at the Cheyenne River Agency, S. Dak., expend such sum as may be absolutely necessary in the employment of L. Karn, veterinary surgeon, of Webster, S. Dak., at lowest obtainable rate, to exceed, however, \$10 per day and traveling expenses in going to the reservation, while on the reserve in the discharge of his official duties, and in returning to his home, in order that said surgeon might make a careful examination of all horses on the reservation stamped with the brand "R" and belonging to one Rousseau, and provided Surgeon Karn was of same opinion as expressed in report of Doctor Elliott (that all horses with the "R" brand were glandered) that the agent take immediate steps to destroy in the most humane manner the entire herd of horses stamped with the "R" brand and belonging to Rousseau, to the end that the disease may be effectually stamped out; but promise of compensation for stock so destroyed is to be made to said Rousseau or to any other person.

I now have the honor to transmit herewith two communications from said agent—one inclosing account of Surgeon Karn for \$50, for five days' microscopical work on the horses stamped with the brand "R," at \$10 per day (besides in addition to the thirteen days' labor performed by him on the reservation under said Department authority of October 7, 1897), and the other inclosing the report of said surgeon, which shows the horses marked with the "R" brand and the reservation to have the glanders, and requesting authority to dispose of animals after being killed.

In view of all the facts in the case I would respectfully recommend that authority be granted the United States Indian agent at the Cheyenne River Agency, S. Dak., to expend such sum as may be absolutely necessary in having condemned "R" brand horses cremated at lowest obtainable rate, not to exceed, however, \$1 per head for each animal so destroyed—this price to include all labor and wood necessary; also that authority be granted the agent to expend a further sum, not exceeding \$74, in the following manner:

Payment to L. C. Karn, V. S., for five days' microscopical work on the horses belonging to one Rousseau, on the Cheyenne River Reserve, in order to determine definitely whether said horses (stamped with the "R" brand) were afflicted with the glanders, at \$10 per day-----	\$50
Purchase of 1,500 cartridges, "Winchester," .44-caliber, central fire, required for immediate use in shooting the condemned horses on the Cheyenne River Reserve, at not to exceed-----	24

74

Payment therefor to be made from appropriation: "Support of Sioux, different tribes, subsistence and civilization. 1898."

Very respectfully,

W. A. JONES, *Commissioner*

DEPARTMENT OF THE INTERIOR,
Washington, December 17, 1897.

The COMMISSIONER OF INDIAN AFFAIRS.

SIR: In compliance with the recommendation contained in your communication of the 13th instant authority is hereby granted for the agent at the Cheyenne River Agency, S. Dak., to expend such sum as may be absolutely necessary in having condemned "R" brand horses (referred to in Department authority of October 7 last) cremated at lowest obtainable rate, not to exceed, however, \$1 per head for each animal so destroyed, this price to include all labor and wood necessary; also to expend a further sum not exceeding \$74 in the following manner:

Payment to L. C. Karn, V. S., for five days' microscopical work on the horses belonging to one Rousseau, on the Cheyenne River Reserve, in order to determine definitely whether said horses (stamped with the "R" brand) were afflicted with the glanders, at \$10 per day-----	\$50.00
Purchase of 1,500 cartridges, "Winchester," 44 caliber, central fire, required for immediate use in shooting the condemned horses on Cheyenne River Reserve, at not to exceed-----	24.00
	<hr/> 74.00

Payment therefor to be made from funds applicable.

Papers submitted are herewith returned.

Very respectfully,

THOS. RYAN,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.
Washington, December 28, 1897.

PETER COUCHMAN,

United States Indian Agent, Cheyenne River Agency, S. Dak.

SIR: You are hereby advised that the honorable Secretary of the Interior has granted you authority to expend such sum as may be absolutely necessary in having condemned "R" brand of horses (referred to in office letter of October 13, 1897) cremated, at lowest obtainable rate, not to exceed, however, \$1 per head for each animal so destroyed, this price to include all labor and wood necessary.

Authority has also been granted for you to expend a further sum, not exceeding \$74, as follows:

Payment to L. C. Karn, veterinary surgeon, for five days' microscopical work on the horses belonging to one Rousseau, on the Cheyenne River Reserve, in order to determine definitely whether said horses (stamped with the "R" brand) were afflicted with the glanders, at \$10 per day-----	\$50.00
Purchase of 1,500 cartridges, "Winchester," 44 caliber, central fire, required for immediate use in shooting the condemned horses on the Cheyenne River Reserve, at not to exceed-----	24.00
Total-----	<hr/> 74.00

This matter was the subject of your letters of November 30 and December 3 last.

Surgeon Karn's account is herewith returned.

Very respectfully,

W. A. JONES, Commissioner.

UNITED STATES SENATE,
Washington, D. C., January 22, 1898.

The COMMISSIONER OF INDIAN AFFAIRS.

DEAR SIR: I inclose a telegram about which I telephoned you this afternoon. I asked that this order be suspended for further investigation. I know these parties, and I think the order should be suspended, as they request. Will you please telegraph Agent Couchman to the effect?

Very respectfully, yours,

R. F. PETTIGREW.

PIERRE, S. DAK., *January 21, 1898*

Hon. R. F. PETTIGREW, *Senate*:

An order has been issued by Indian Office or Secretary Interior ordering brand of horses on Cheyenne River Agency, S. Dak., immediately killed. Rousseau has just heard of this order and has had no time to appear and is erroneous. Have this order suspended by wire to Major Couchman, a Cheyenne River Agency, S. Dak., for a few days, to enable Rousseau to have horses further examined. Government Surgeon Treacy, at Fort Fort, S. D., after thorough examination, reports to Rousseau that horses are free of glanders. We have other surgeons coming and want time for examination. It can do no harm, and will save to Rousseau all the property she has, worth \$25,000. Answer my expense.

JOHN F. HUGHES

[Telegram.]

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 22, 1898

COUCHMAN,

Agent Cheyenne River Agency, S. Dak.:

Suspend order to destroy glandered horses of "R" brand until further order.

W. A. JONES, *Commissioner*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 22, 1898

Hon. R. F. PETTIGREW,
United States Senate.

SIR: In compliance with your request of this date, based upon a telegram from John F. Hughes, of Pierre, S. Dak., I have telegraphed the United States Indian Agent at Cheyenne River Agency, S. Dak., to suspend the destruction of glandered horses of "R" brand until further orders. As Mr. Hughes asks that the order be suspended for a few days only. I have telegraphed Agent Couchman with the understanding that the suspension shall be for a very brief period unless it can be clearly shown that the order is erroneous.

Very respectfully,

W. A. JONES, *Commissioner*

PIERRE, S. DAK., *January 27, 1898*

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

SIR: We have the honor to transmit herewith the petition of Mrs. F. Rousseau concerning the "R" brand horses on the Cheyenne River Indian Reservation, which were ordered killed for being glandered, and which has been by your letter of January 22, 1898, suspended temporarily. If the opportunity petitioned for we are satisfied that we shall convince you of the order to kill the horses is based on reports that are false and erroneous.

Very respectfully,

SHUNK & HUGHES,
Attorneys for Esther Rousseau

STATE OF SOUTH DAKOTA, *County of Hughes, ss:*

J. W. Williams, being first duly sworn, on oath says:

That he now resides at White Horse Camp, on the Moreau River, on the Cheyenne River Indian Reservation, and is familiar with the "R" brand horses, and the same described in the order of the honorable Commissioner of Indian Affairs to kill and destroy said "R" brand. That I have been acquainted with said horses for the term of fifteen years. Your affiant finds that on his way to Pierre, S. Dak., and on January 24, 1898, at the

and corral of Fred La Plant, on said reservation, he saw and looked through a bunch of about 20 head of said "R" brand of horses. That at said time and place he first heard of the order to destroy said horses, and by reason thereof he looked through said bunch of horses carefully, and could not find or discover any evidence or indications of glanders nor any other disease. That said horses, and all of them, looked healthy and were apparently sound. That your affiant has been engaged in raising and handling horses for more than thirty years.

J. W. WILLIAMS.

Subscribed and sworn to before me this 27th day of January, 1898.

A. C. BRINK,
Notary Public, South Dakota.

To the honorable Commissioner of Indian Affairs, Washington, D. C.

Your petitioner, Mrs. Esther Rousseau, respectfully petitions and shows to the honorable Commissioner that she is the owner of about 600 head of horses, ranging in age from 1 to 27 years, the said horses being the same described in the order to kill and destroy the "R" brand of horses on said reservation issued by said Commissioner.

Your petitioner further shows that the actual cash value of said horses included in said order is not less than the sum of \$25,000.

Your petitioner further represents and shows to the honorable Commissioner that the said "R" brand of horses have been bred and raised by your petitioner at their present location, or in the vicinity thereof, and are the result of about twenty years' labor in this direction.

Your petitioner further shows that neither at this time nor at any prior time have any of the horses of said petitioner been afflicted with the glanders or any other disease similar thereto or with any disease whatsoever, and that during all of said time said horses have been sound and are now sound, fat, and absolutely free from any disease whatsoever.

Your petitioner further represents and shows that at no time has she been informed nor does she know of the existence, scope, and extent of the order to kill said horses, nor of the facts, reports, and other matters which form the foundation of said order, except what has come to her indirectly and by rumor: that no copy of said order or of said reports and other matters have ever been served on her, or any notice whatever of them given to her, but that she is informed and believes that one J. K. Seckler and other employees of the agency had built a corral and made all preparations for the destruction of said horses, and your petitioner believes that said horses would have been destroyed without notice to her had not your order of suspension been granted herein.

Your petitioner further shows that she is just in receipt on this 27th day of January, 1898, of your letter of January 22, 1898, addressed to the Hon. R. F. Pettigrew, wherein you state that the order to kill said horses shall be suspended for only a brief period, unless it can be clearly shown that the said order to kill said horses is erroneous.

Your petitioner further says that she made application, through her agent and attorneys, to Agent Couchman for permission to see said order and the reports and other matters on which the same was based, and that he would not disclose said order, and your petitioner infers from the conversation her attorney had with the agent at said time and from other indirect sources that the said order is based on the reports of examinations made by one Elliott and one Karm.

Your petitioner further represents and shows to the honorable Commissioner that at no time has the agent at said agency ever personally inspected, examined, or seen the horses described in said order to kill, and that this fact will be admitted by the agent and can be shown by his admissions made to your petitioner and her attorneys and to divers other agents and employees of the reservation.

In regard to the examination of said horses made by said Elliott, your petitioner says that said examination was superficial, and there were no tests used nor any means taken by which the said Elliott could have determined that said horses were afflicted with glanders; that he only spent in all a few hours in the examination of the bunch of horses owned by your petitioner, containing over 600 head; that he merely threw a few of the horses and looked in their nostrils; that he used no instruments nor made any other tests whatever by which he could have determined that the horses were glandered.

That in regard to the report of Veterinarian Karn, your petitioner would that he apparently carefully examined the horses of your petitioner by taking certain fluids in the neck of said animals, or a portion thereof, by examining the mucus taken from the nostrils of said animals, or a portion thereof; that after such examination made as aforesaid that said Karn then and stated to your petitioner and divers other and different persons, parties to one of the farmers of said reservation, to one Charles Como, Oscar Rou and James Anderson, that he had found no evidence of glanders and that Elliott had certainly made a mistake in the matter; that the horses here killed by Mr. Elliott had been wrongfully destroyed, and that he would, and give to your petitioner a certificate showing that the horses that I amined were not in any manner or form afflicted with glanders or with other diseases, and that the same were sound and all right.

Your petitioner further says that prior to the examination by said Karn hereinbefore stated, and subsequent to the examination by said Elliott, petitioner caused said bunch of horses to be examined by one Tracey, who was and still continues to be the Government veterinary surgeon at Fort M in the State of South Dakota. Your petitioner further shows that said T in examination of said bunch of horses occupied eleven days' time, was continually with said animals from 6 o'clock in the morning until noon from 1 o'clock until 6 o'clock in the afternoon. Your petitioner further says the said Tracey used and operated with all the tests known to his profession for the detection of the disease of glanders, and after his examination as said the said Tracey pronounced said horses free and clear from any trace of glanders or from any disease whatever. Your petitioner further says that such examination the said Tracey, with your petitioner, went to the agency informed the agent of the result of said examination as hereinbefore stated and requested the said agent that said Elliott be called to meet said Tracey that they would then again examine the said bunch of horses that there would be no mistake in the matter; and your petitioner further represents that Tracey wrote to said Elliott for the purpose of arranging a meeting for examination of said horses, and that said Elliott wholly refused to meet Tracey or to make any further examination of said horses.

Your petitioner further represents that since the granting of the order to suspend the order to kill and destroy the said "R" brand of horses that requested from the agent permission to bring upon said reservation a competent veterinarian to examine said bunch of horses, and that said permission was denied until said agent should be further instructed by the Department.

Your petitioner further represents that she is willing and ready to provide the attendance of any veterinary surgeon who may be accessible, who is competent to examine said horses, and will give said horses an examination, make a report of the facts as they exist, uninfluenced by what may have been said and done heretofore in the premises.

Your petitioner further petitions the Department to select and send a veterinary surgeon to examine such horses, and most respectfully and sincerely petitions that some surgeon be selected who resides without the State of South Dakota and who will not be influenced by the position taken by the surgeon who have heretofore examined said horses.

Your petitioner further represents that said horses are now being corralled on the range immediately adjacent to the place of residence of your petitioner, and that your petitioner will continue to herd the same and prevent them from commingling with other horses on the said reserve and other horses comingling with them during the time necessarily occupied in procuring, having, and conducting the examination of said bunch of horses.

Your petitioner further represents that if time be given for such examination she will conclusively prove to the honorable Commissioner that the order, reports, and statements on which said order was based are totally erroneous and false; in fact, that said bunch of horses are totally and absolutely free from glanders and any diseases whatever.

Your petitioner further represents and shows to the honorable Commissioner that she is a mixed blood, but a citizen of the United States and of the State of South Dakota; that she is entitled to all the rights and privileges provided for under the act of Congress of June 7, 1897 (p. 90); that none of the horses included in this bunch and in the order aforesaid are issue horses, but are her own individual property, reared by herself, and your petitioner respectfully denies the jurisdiction of the Department of the Interior to make the order aforesaid or to make any order looking to the killing and destruction of said horses.

Your petitioner further shows that prior to obtaining your order of January 22, 1898, suspending the aforesaid order to kill said horses, your petitioner had made application for an injunction to the circuit court of the sixth judicial circuit of said State, and that afterwards said injunction was granted by said court and the same has been served upon the agent and other persons that your petitioner was informed would take part in the killing and destruction of said horses.

Your petitioner further shows and represents that your petitioner and her property are subject to the laws of the State of South Dakota, and that said laws are ample for the destruction of said horses if they are glandered or afflicted with any certain diseases, and your petitioner further says that it is not her desire to thwart any effort to kill said horses if they are found glandered or afflicted with any other diseases necessitating their destruction, and that all she desires is that a fair examination of said horses be made and that she have a chance to be heard and to be represented at such examination, and that if such rights and privileges be accorded to her she will show to the honorable Commissioner that said order is based upon reports which are absolutely and totally wrong in facts.

Wherefore your petitioner respectfully prays that said order to kill and destroy such bunch of horses remain suspended for a period of sixty days to enable your petitioner to have a further examination of said horses; that your petitioner during said period be allowed to take upon the said reservation a competent veterinary surgeon for the purpose of making such examination and reporting to the honorable Commissioner the results thereof, and that the honorable Commissioner appoint some competent veterinary surgeon outside of the State of South Dakota to make an examination of said horses at a certain time and place and that your petitioner be informed of such time and place, to the end that justice may be done your petitioner and her property be protected and not destroyed.

SHUNK & HUGHES,
Attorneys for Petitioner.

STATE OF SOUTH DAKOTA, *County of Hughes, ss:*

Romauld Rousseau, being first duly sworn, on oath says that he is the husband and agent of your petitioner, the said Esther Rousseau, and that he is conversant with all the facts stated in the petition, and that he is authorized to make and makes this petition on behalf of the said petitioner, and that the facts therein stated are true to his own personal knowledge, except as to such matters as are stated on information and belief, and as to such matters he believes them to be true.

R. ROUSSEAU.

Subscribed and sworn to before me this 27th day of January, 1898.

A. C. BRINK,
Notary Public, South Dakota.

[Telegram.]

PIERRE, S. DAK., *February 5, 1898.*

The COMMISSIONER OF INDIAN AFFAIRS,

Washington:

Will you wire permission to go on reservation to examine Rousseau horses. Agent refuses to act till instructed.

SHUNK & HUGHES.

ABERDEEN, S. DAK., *February 4, 1898.*

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

DEAR SIR: I am advised by the agent of the Cheyenne Agency, Hon. Peter Couchman, that an injunction has been served on him restraining him from further action in the destruction of the Rousseau horses. He also states that he has a message from the department of Indian Affairs at Washington to cease further action in the killing of these horses. This is written to state my position in the matter.

In the fall of 1894 I was called to examine this bunch of horses, but my being limited I did not make a thorough examination. In the spring of 1895 I was again called, and spent thirty days, but again was unable to get all horses rounded up properly. I was then satisfied that there was a clique of men keeping the stock out of the way, so that it was impossible to round up and properly finish the work.

In 1897 I was again called, and this time succeeded in rounding up nearly all of that brand of horses. And after a careful and thorough examination of all these horses, with a keen sense of the responsibility involved, I was forced to the conclusion that there was nothing to do in this case but to condemn the whole "R" brand of horses. My judgment has since been corroborated by Dr. L. C. Karn, who is a graduate of Toronto Veterinary College.

We have tested the virus from these horses by all the different tests known to the profession, and are prepared to sustain our opinions with the best proof at any time. There is no doubt about this disease being glanders.

As State veterinarian I am unable to cope with this disease, as our legislation failed to make any appropriation for my office. And as these horses are on Government lands and under the jurisdiction of the United States I am unable to reach them.

These horses are being spread all over the State, infecting the stock sections, and I consider it the duty of the General Government to detail one to look after this matter, or empower me with sufficient authority to proceed.

I shall be pleased to furnish you with any information in my possession to cooperate with any person you may appoint for this work.

Very respectfully,

J. W. ELLIOTT, V. S.,
State Veterinarian

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, February 12, 1898

The SECRETARY OF THE INTERIOR.

SIR: Under date of December 17, 1897, the Department authorized the United States Indian agent in charge of the Cheyenne River Reservation, S. D., to purchase cartridges, employ labor, etc., incident to the killing and cremation of "R" brand horses on said reservation suffering from glanders and condemned by two competent veterinary surgeons employed by the agent in proper authority from the Department. The agent of the Cheyenne River Agency, S. Dak., subsequently took the necessary steps to carry out the directions of the Department.

Under date of January 22, 1898, Hon. R. F. Pettigrew, United States Senator, addressed the following letter to this Office:

"I inclose a telegram about which I telephoned you this afternoon. I know that this order be suspended for further investigation. I know these people and think the order should be suspended, as they request. Will you please telegraph Agent Couchman to that effect?"

The telegram referred to in Senator Pettigrew's letter was from John Hughes, dated Pierre, S. Dak., January 21, 1898, and reads as follows:

"An order has been issued by Indian Office or Secretary Interior ordering the 'R' brand of horses on Cheyenne River Agency, S. Dak., immediately killed. Client Rousseau has just heard of this order and has had no time to appear and show erroneous. Have this order suspended by wire to Major Couchman, Cheyenne River Agency, S. Dak., for few days to enable Rousseau to have horses further examined. Government Surgeon Treacy, at Fort Fort, S. D., after thorough examination, reports to Rousseau that horses are free from glanders. We have other surgeons coming and want time for examination. This can do no harm and will save to Rousseau all the property she has, valued at \$25,000. Answer my expense."

In compliance with Senator Pettigrew's request the following telegram was sent to Agent Couchman by this Office on the 22d ultimo:

"Suspend order to destroy glandered horses of 'R' brand until further orders."

The following letter was also addressed by me to Senator Pettigrew on the same date:

"In compliance with your request of this date, based upon a telegram from John F. Hughes, of Pierre, S. Dak., I have telegraphed the United States

Indian agent at Cheyenne River Agency, S. Dak., to suspend the destruction of glandered horses of "R" brand until further orders. As Mr. Hughes asks that the order be suspended for a few days only, I have telegraphed Agent Couchman with the understanding that the suspension shall be for a very brief period, unless it can be clearly shown that the order is erroneous."

I now have the honor to inclose herewith copy of a letter from Messrs. Shunk & Hughes, of Pierre, S. Dak., attorneys for Mrs. Esther Rousseau, the alleged owner of the "R" brand horses ordered killed; also copy of Mrs. Rousseau's petition praying that said order be suspended and a further examination made of her horses, for reasons set forth therein.

I also inclose a copy of a communication from J. W. Elliott, State veterinarian for South Dakota (who made the first examination of said "R" brand horses and recommended the destruction of the entire herd, which recommendation was subsequently concurred in by L. C. Karn, veterinary surgeon, who made an additional examination of said brand under authority from the Department dated October 7, 1897), setting forth fully the history of the case, and stating:

"* * * In 1897 I was again called, and this time succeeded in rounding up nearly all of that (Rousseau) brand of horses, and after a careful and thorough examination of all these horses, with a keen sense of the responsibility involved, I was forced to the conclusion that there was nothing to do in this case but to condemn the whole "R" brand of horses. My judgment has since been corroborated by Dr. L. C. Karn, who is a graduate of Toronto Veterinary College.

"We have tested the virus from these horses by all the different tests known to the profession, and are prepared to sustain our opinions with the best of proof at any time. There is no doubt about this disease being glanders.

"As State veterinarian I am unable to cope with this disease, as our legislature failed to make any appropriation for my office. As these horses are upon Government lands and under the jurisdiction of the United States, I am unable to reach them.

"These horses are being spread all over the State, infecting the stock of all sections, and I consider it the duty of the General Government to detail some one to look after this matter or empower me with sufficient authority to proceed.

"I shall be pleased to furnish you with any information in my possession and to cooperate with any person you may appoint for this work."

In this connection I might add that the glanders was first discovered among horses on the Cheyenne River Reserve in 1891, and the Department has from time to time since that date authorized the agent in charge of said reservation to expend large sums of money in the employment of veterinary surgeons to examine and kill horses afflicted with said disease. It now appears that the only course left to stamp out the disease from the reservation is to destroy the entire "R" brand, as authorized by the Department.

Before taking further action in the premises, and in order that no possible injustice may be done the owner of the horses, I have to respectfully recommend that the honorable Secretary of Agriculture be requested to detail a competent person from his Department to proceed to the Cheyenne River Agency, S. Dak., and make a rigid and careful examination of all horses stamped with the "R" brand belonging to said Rousseau. And as the interests involved are very large, I also recommend that the honorable Secretary of War be requested to detail some competent veterinary surgeon, who shall be entirely independent of any bias in the matter, to act with the expert from the Department of Agriculture. It is also suggested that perhaps the matter is important enough for the Department to have a representative of its own to assist in the examination. When the examination is completed, the experts selected should make a full report in the matter, accompanying it with such recommendations as the case demands. It is desirable that this investigation be made as early as practicable.

The actual and necessary traveling expenses of the persons detailed will be paid by this office from the appropriation "Support of Sioux, different tribes, subsistence and civilization, 1898," upon presentation of proper vouchers (in duplicate) with subvouchers attached.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

COMMITTEE ON EDUCATION AND LABOR,
UNITED STATES SENATE,
February 9, 1895

The COMMISSIONER OF INDIAN AFFAIRS, *City.*

DEAR SIR: Permit me to invite attention to a letter from Agent Couch, Cheyenne Agency, S. Dak., which I hand you herewith. I know nothing of the actual facts in this matter, but have unbounded confidence in the judgment and honor of Mr. Couchman. I know him to be a most conscientious man and I believe you will find that he can be fully relied upon in all matters relating to the best interest of the service.

Yours, very truly,

JAMES H. KYLE

CHEYENNE RIVER AGENCY, S. DAK., *January 29, 1895*
HON. JAMES H. KYLE,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I think Mr. Elliott spoke to you about the glau horses he had examined on this reserve belonging to one Rousseau. Frequently they were examined by Doctor Karn, veterinary surgeon, of W. S. Dak., who concurred in the views of Doctor Elliott, and thereupon I received orders from the Department to destroy the entire "R" brand belonging to said Rousseau. I had made all preparations to commence the work—built a large corral in a suitable place so as to have them all together in order the carcasses could be easily destroyed, all of which required considerable as there are from 500 to 700 head in the bunch. Just as I had all necessary arrangements completed, I received a message from the Department to suspend further action, which order I am just as well satisfied with as to go on with the work; but I am confident they are glandered from what many Indians say about their horses catching it from this herd. I am sure that we lost one of our best horses by its being in Rousseau's stable. The whole herd has been bred from glandered stallions and mares, and his relatives were the first to complain about them.

I am informed that this stay of proceedings was brought about by Senator Pettigrew, but think he will not oppose further action when he is advised all the facts in the matter. Now, the next step, I am quite sure, that Rousseau's attorneys will take will be to try and have these horses examined by a veterinary of their own selection, which should not be permitted. I wish I could see the Commissioner and have it understood that some competent person is selected, who knows nothing of the case and hence can not be prejudiced.

I would have written the Department, but feared they might think me sided in my views in this matter; but I am not, and only want a fair test. I am sure what the result would be if they can get a veterinary of their selection, especially if money could be used. I think you can see the injustice or injustice in making this selection. I know the Department wants not but what is right and fair, and that is all I am after.

Excuse me for troubling you so much, but I will certainly appreciate attentions in this matter and feel grateful if you will see to this.

Very respectfully,

PETER COUCHMAN,
United States Indian Agent

CHEYENNE RIVER AGENCY, S. DAK., *February 9, 1895*
The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEAR SIR: The chiefs of the Cheyenne River Agency, S. Dak., never asked the Department to send a horse doctor here to examine those horses have them killed.

If any claims for the horses that were killed in this reservation should be made we wish to state that we object that any money for such a purpose should be taken from the Indian funds. We, undersigned on the bill,

Paul White Swan (his x mark), Matthews Charger (his x mark),
Abraham No Heart (his x mark), Aleck Swift Bird (his x mark),
Joseph Four Bear (his x mark), Jacob Walk Ra Rib (his x mark),
Touching the Sky (his x mark), Mc Crow Feather (his x mark),
Daniel Walking Crane (his x mark), Paul Crow Eagle (his x mark),
Thomas Takes Standing (his x mark).

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., February 21, 1898.

The SECRETARY OF THE INTERIOR.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th instant, with a copy of papers relating to the alleged existence of glanders in a band of horses on the Cheyenne River Indian Reservation, S. Dak. As requested, this Department will detail an official veterinarian to make a careful and rigid examination of these horses, who will report recommendations in the case.

As soon as an inspector is designated for this investigation I will advise you and make further arrangements in regard to this case.

Very respectfully,

JAMES WILSON, *Secretary.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., February 23, 1898.

The SECRETARY OF THE INTERIOR.

SIR: Referring to previous correspondence concerning the alleged existence of glanders in a band of horses on the Cheyenne River Indian Reservation, S. Dak., I have the honor to advise you that this Department has selected for this investigation Dr. Robert H. Treacy, Bismarck, N. Dak., and assistant inspector of the Bureau of Animal Industry of this Department. Please inform me of the date on which a veterinary surgeon will be detailed by the War Department, in order that the inspector from this Department may be notified of the time and place at which he will meet the person so detailed.

Very respectfully,

JAMES WILSON, *Secretary.*

WAR DEPARTMENT,
Washington, D. C., February 25, 1898.

The SECRETARY OF THE INTERIOR.

SIR: I have the honor to acknowledge receipt of your letter of the 16th instant, requesting that a veterinary surgeon of the United States Army be detailed to act with the expert from the Department of Agriculture in the examination of horses on the Cheyenne River Indian Reservation, S. Dak., bearing the "R" brand and belonging to Mrs. Esther Rousseau, and to inclose herewith a copy of a letter from the Adjutant-General's Office, addressed to the commanding general Department of Dakota, directing him to detail, for the purpose indicated, the veterinary surgeon of the Eighth Cavalry, now stationed at Fort Yates, N. Dak.

Very respectfully,

R. A. ALGER, *Secretary of War.*

ADJUTANT-GENERAL'S OFFICE,
Washington, February 25, 1898.

The COMMANDING GENERAL DEPARTMENT OF DAKOTA,
St. Paul, Minn.

SIR: The Major-General Commanding the Army instructs me to transmit herewith a letter from the Acting Secretary of the Interior, inclosing certain papers relating to the condition of horses on the Cheyenne River Indian Reservation, S. Dak., bearing the "R" brand and belonging to Mrs. Esther Rousseau, and to inform you that the Secretary of War directs that you detail the veterinary surgeon of the Eighth Cavalry, now serving at Fort Yates, N. Dak., to act with the expert from the Department of Agriculture in the examination of the horses specified; that actual and necessary expenses be paid by the Commissioner of Indian Affairs, as proposed in the letter from the Interior Department.

Very respectfully,

H. C. CORBIN,
Acting Adjutant-General.

(CHEYENNE RIVER AGENCY, S. DAK., March 2.

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

SIR: I have the honor to state that since receiving your telegram of J 22 last, to suspend orders to destroy the "R" brand of horses, I have served with notice of injunction proceedings by the attorneys for Rousseau papers of which I inclose herewith for your information, with the request you give me such instructions in the matter as you may deem necessary.

I am informed that as soon as I am relieved as agent Rousseau intends filing a personal action against Doctor Elliott and myself for damages sustained by the loss of the horses heretofore condemned and destroyed. If that I will it require my personal attention in defense or will the Department have my interests in that action?

The reason I have not written about this matter before now is because I have been awaiting further instructions from your office.

I will thank you to return to me the inclosed papers.

Very respectfully,

PETER COUCHMAN,
United States Indian Agent.

State of South Dakota, county of Stanley, in the circuit court, sixth judicial district. Esther Rousseau, plaintiff, v. Peter Couchman, J. K. Seckler (whose true Christian name is to plaintiff unknown), Douglas F. Carlan, and the Hawk, defendants.

Summons.

The State of South Dakota sends greeting:

To said defendants you and each of you are hereby summoned and required to answer the complaint of the plaintiff, Esther Rousseau, herein, a copy of which complaint is herewith served upon you, and to serve a copy of your answer on the subscriber at their office in the Hilges Block, in the city of Hughes County, S. Dak., within thirty days after the service of this summons upon you, exclusive of the day of service, and if you fail so to do the plaintiff will apply to the court for the relief demanded in said complaint, besides the costs of this action.

SHUNK & HUGHES,
Attorneys for Plaintiff.

PIERRE, S. DAK., January 21, 1898.

State of South Dakota, County of Stanley, in circuit court, sixth judicial district. Esther Rousseau, plaintiff, v. Peter Couchman, J. K. Seckler (whose true Christian name is to plaintiff unknown), Douglas F. Carlan, and the Hawk, defendants.

Complaint.

The plaintiff complains and alleges:

First. That she is the owner and entitled to the immediate possession of the following described personal property, to wit, five hundred head of horses branded "R" on left thigh or hip, of the value of \$25,000.

Second. That the said defendants on or about the 20th day of January, 1898, wrongfully and unlawfully took said chattels from the possession of said plaintiff, and ever since have, and now do, wrongfully and unlawfully retained possession of said chattels, in the county of Armstrong (said county of Armstrong is attached to the county of Stanley, in the State of South Dakota, for jurisdictional purposes, said Stanley County being the county in which this action is brought) and are about to kill and destroy the same to the plaintiff's damage in the sum of \$25,000.

Third. That said property has not been taken for a tax, assessment, or pursuant to statute, or seized under an execution against the property of said plaintiff or by any authority of law.

Wherefore plaintiff demands judgment against said defendants for the possession of said property, or for the sum of \$25,000, the value thereof, in case said property can not be delivered, and for the costs and disbursements of this action.

SHUNK & HUGHES,
Attorneys for Plaintiff.

STATE OF SOUTH DAKOTA, COUNTY OF HUGHES, ss:

John F. Hughes, being duly sworn, on oath says:

That he is one of the attorneys for the plaintiff in the above-entitled action; that he has read the foregoing complaint and knows the contents thereof and that same is true to best knowledge and belief of affiant; that the reason why this verification is made by the attorney and not by the plaintiff is that said plaintiff is absent from and not now within the county of Stanley, State of South Dakota, the county in which said action is brought, and from Hughes County, where plaintiff resides.

JOHN F. HUGHES.

Subscribed and sworn to before me this 21st day of January, 1898.

[SEAL.]

B. J. BRUFORD.

Notary Public in and for Hughes County, S. Dak.

State of South Dakota, county of Stanley, in circuit court, sixth judicial circuit.
 Esther Rousseau, plaintiff, v. Peter Couchman, J. K. Seckler (whose true Christian name is to plaintiff unknown), Douglas F. Carlan, and Seares the Hawk, defendants.

STATE OF SOUTH DAKOTA, County of Hughes, ss:

Romauld Rousseau, being first duly sworn, on oath says:

That he is the agent of Esther Rousseau, the plaintiff in the above-entitled action, and is authorized to make and makes this affidavit for and on behalf of said plaintiff.

That the plaintiff has commenced an action in the above-entitled court for the recovery of the possession of 500 head of horses, the property of the plaintiff, and which property is of the value of \$25,000, and that no answer has been made or served in said action, and a copy of the complaint and summons in said action is hereto attached and made a part hereof.

That the said plaintiff is the absolute owner of said property and is entitled to the immediate possession of the same, and that said property is unlawfully withheld from the possession of the plaintiff by the defendants in the county of Armstrong, State of South Dakota, and that they have no title or interest in or to said property or any part thereof.

That the said defendants threaten to kill and destroy said horses immediately, and that they are about to kill and destroy all of said horses immediately.

That if they are not immediately restrained by the injunction of this court they will kill and destroy all of said property and damage this plaintiff in the sum of \$25,000.

That they, and each of them, have no sufficient property or means out of which a judgment in said action could be made and collected, and that if by the destruction of said property the plaintiff shall be compelled to take a judgment in said action for the value of said property said judgment could not be made or collected on execution or otherwise against the property of the defendants, and if they are not restrained from the killing and destroying of said property any judgment which said plaintiff may obtain will be rendered wholly ineffectual and worthless to her.

That the plaintiff has no other speedy and adequate remedy at law and is not able to obtain immediate possession of said property.

That the Hon. Loring E. Gaffy, judge of the circuit court in and for said county of Stanley and the sixth judicial circuit, in which said action is pending, is now temporarily absent from and without the territorial limits of the State of South Dakota.

Wherefore affiant prays for an injunction against the defendants and each of them, their agents, servants, employees, or attorneys, restraining all and each of them, pending the termination of the said action, from killing and destroying said property or any part thereof, or in any manner injuring or damaging the same.

ROMAULD ROUSSEAU.

Subscribed and sworn to before me this 21st day of January, 1898.

[SEAL.]

B. J. BRUFORD,

Notary Public in and for Hughes County, S. Dak.

State of South Dakota, county of Stanley, in circuit court, sixth judicial circuit.
 Esther Rousseau, plaintiff, v. Peter Couchman, J. K. Seckler (whose Christian name is to plaintiff unknown), Douglas F. Carlan, and Scare Hawk, defendants.

Upon filing and reading the annexed and foregoing affidavit of Roi Rousseau, together with the summons and complaint therein, and it appear the court that an action has been commenced by the plaintiff, Esther Rousseau, against said defendants for the possession of 500 head of horses, of the value \$25,000, which said horses are more particularly described in said complaint. It further appearing by the affidavit of Romauld Rousseau, the agent of plaintiff, that he has authority to make and makes such affidavit on the part of the plaintiff, from which said affidavit it appears further that said defendants are about to kill and destroy said horses, the property of said plaintiff of the value aforesaid, and will so kill and destroy said property unless restrained by the order of said court, and it further appearing from said affidavit that such killing and destruction of said property is in violation of said plaintiff's rights therein and will tend to render any judgment that may be entered in said action inefficient, and it further appearing that said plaintiff has no other and adequate remedy at law, and it further appearing that the Hon. Lor. Gaffy, judge of the circuit court in and for said county of Stanley and the judicial circuit, in which said action is pending, is now temporarily absent and without the territorial limits of the State of South Dakota:

Now, on motion of Shunk & Hughes, attorneys for the plaintiff,

Be it ordered, That you, the said Peter Couchman, J. K. Seckler, Douglas F. Carlan, and Scare Hawk, your agents, servants, and all persons acting under your authority, and each of you, are hereby restrained and prohibited from killing and destroying any of the horses described in the complaint in said action and in the affidavit of said Romauld Rousseau, a copy of which is hereby served upon you, which said horses are described in said complaint and affidavit as being branded "R" on left thigh or hip; and

It is further ordered, That a copy of this injunctive order and of said affidavit complaint on which the same is based be forthwith served upon each of the said defendants.

Done at chambers at the city of Mitchell, S. Dak., this 22d day of January, 1898.

By the court:

FRANK B. INUCH, *Jur.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.

Washington, March 9, 1898.

PETER COUCHMAN,

United States Indian Agent, Cheyenne River Agency, S. Dak.

SIR: Referring to the correspondence between this Office and yourself relative to the killing of "R" brand horses on the reservation under your charge, and especially to office telegram of January 22, 1898, directing you to suspend order to destroy glandered horses of "R" brand until further advised, you are now advised that upon the recommendation of this Office the Department has detailed the veterinary surgeon of the Eighth Cavalry serving at Fort Yates, N. Dak., to make a further careful and rigid examination of said "R" brand horses, and the Agricultural Department has detailed Dr. Robert H. Tracy, of Bismarck, N. Dak., an assistant inspector of the Bureau of Animal Industry of said Department, for the same purpose, these gentlemen to make full report in the matter, accompanied by their recommendation as the case demands.

The persons mentioned will visit your reservation very shortly, and are directed to furnish them with such information and assistance as they may desire in carrying out instructions from their respective Departments. You will also supply them with necessary vouchers for use in making up traveling-expense accounts and enlighten them as to the manner of preparing said vouchers, so that they may be in proper form when presented to the Office for settlement through the Treasury Department.

Copies of letters from the War and Agricultural Departments are herewith transmitted.

Very respectfully,

A. C. TONNER, *Acting Commissioner*

WAR DEPARTMENT.
Washington, March 3, 1898.

The SECRETARY OF THE INTERIOR.

SIR: Referring to your letter of the 25th ultimo, requesting that you be advised as to the date on which the veterinary surgeon will be detailed by the War Department to assist Dr. Robert H. Treacy, of the Department of Agriculture, in the examination of certain horses on the Cheyenne River Indian Reservation, I have the honor to inform you that the commanding general, Department of Dakota, has instructed Veterinary Surg. Richard B. Corcoran, Eighth Cavalry, stationed at Fort Yates, N. Dak., to confer with Doctor Treacy by telegraph and to make definite arrangements with him for the time and place of their meeting for the purpose indicated.

Very respectfully,

R. A. ALGER, *Secretary of War.*

UNITED STATES DEPARTMENT OF AGRICULTURE.
OFFICE OF THE SECRETARY,
Washington, D. C., March 5, 1898.

The SECRETARY OF THE INTERIOR.

SIR: Referring to your letter of the 1st instant, Dr. Robert H. Treacy, Bismarck, N. Dak., has been advised of the detail of the veterinary surgeon of the Eighth Cavalry, stationed at Fort Yates, N. Dak., to act with him in examining the band of horses on the Cheyenne River Indian Reservation referred to in previous correspondence. I have advised him that his salary during this time will be paid by this Department, and in accordance with the proposition contained in your letter of the 16th ultimo the actual and necessary expenses will be paid by the Commissioner of Indian Affairs upon the presentation of proper vouchers. Kindly have the proper blanks and instructions issued to Doctor Treacy in order that he may be paid the traveling expenses referred to.

Very respectfully,

JAMES WILSON, *Secretary.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 9, 1898.

DR. ROBERT H. TREACY,
Bismarck, N. Dak.

SIR: Under date of March 5 last the honorable Secretary of Agriculture requests that proper blanks and instructions be issued to you in order that you may be reimbursed for traveling expenses to be incurred in carrying out instructions of his Department in the matter of examination of glandered horses on the Cheyenne River Reservation, S. Dak.

You are advised that the United States Indian agent at the Cheyenne River Agency, S. Dak., will supply you with blank vouchers, and will also render you such aid in the preparation thereof as may be necessary in the premises.

Receipts for all expenditures should be taken, same to be filed with original voucher, before transmitting to this Office for payment through the Treasury Department.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

UNITED STATES DEPARTMENT OF AGRICULTURE.
OFFICE OF THE SECRETARY,
Washington, D. C., March 11, 1898.

SECRETARY INTERIOR:

Doctor Treacy telegraphs "will Commissioner of Indian Affairs send letter of authority and instructions to Bismarck or Forest City? Have received several inquiries from commanding officer at reservation when I will start. Awaiting instructions." Kindly issue instructions or notify this Department.

JAMES WILSON, *Secretary.*

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS,
Washington, March 14, 1891.

The SECRETARY OF THE INTERIOR.

SIR: I have the honor to acknowledge receipt, by Department referee the 12th instant, of a letter from the honorable Secretary of Agriculture dated the 11th instant, relative to issuing instructions to Doctor Treacy has been detailed to make examination of certain horses now on the Cheyenne River Reservation, S. Dak.

In reply thereto you are respectfully informed that the following letter addressed by this office to Dr. Robert H. Treacy at Bismarck, N. Dak., the 9th instant, and has doubtless been delivered to him ere this, viz:

"Under date of March 5 last, the honorable Secretary of Agriculture requests that proper blanks and instructions be issued to you in order you may be reimbursed for traveling expenses to be incurred in carrying out instructions of his Department in the matter of examination of glandered horses on the Cheyenne River Reservation, S. Dak.

"You are advised that the United States Indian agent at Cheyenne Agency, S. Dak., will supply you with blank vouchers, and will also render such aid in the preparation thereof as may be necessary in the premises.

"Receipts for all expenditures should be taken, same to be filed with our voucher, before transmitting to this office for payment through the Treasury Department."

The letter from the honorable Secretary of Agriculture is respectfully returned.

Very respectfully,

A. C. TONNER, *Acting Commissioner*

DEPARTMENT OF THE INTERIOR.

Washington, March 15, 1891.

The SECRETARY OF AGRICULTURE.

SIR: I have the honor to acknowledge the receipt of your communication of the 11th instant, asking to be notified as to the instructions given to Doctor Treacy, detailed to make examination of a band of glandered horses on the Cheyenne River Reservation, S. Dak.

In response thereto I transmit herewith a copy of a communication of the 14th instant from the Commissioner of Indian Affairs showing the result taken in the matter.

Very respectfully,

C. N. BLISS, *Secretary*

LAW OFFICE OF SHUNK & HUGHES,

Pierre, S. Dak., March 7, 1891.

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

MY DEAR SIR: We have the honor to transmit by to-day's mail to you certificate of Doctor Dalton, of Chicago, in the matter of the "R" brand horses which were to be destroyed under your recent order to the agent at Cheyenne River Indian Reservation.

The report will show that a very careful examination was made of the horses with the result as stated.

We also transmit herewith the affidavit of Mr. Sage, who was present at such examination.

As soon as it is possible under existing circumstances we will transmit you the affidavit of Mr. Seckler, one of the farmers of said reservation who was also present at such examination of horses, which will show the facts in the certificate and affidavit herein stated.

As we before petitioned you on behalf of Mr. Rousseau to send here a competent veterinary surgeon to examine these horses, and asked that such surgeon be selected outside of the State of South Dakota that he might not be influenced by the examination and report of the doctors residing here in the State, so again Mr. Rousseau desires us to write you asking that such examination be made.

tion be made by any outside surgeon whom you may select, feeling certain that after such examination, if you are not now satisfied, that you will be thoroughly convinced that the order to kill such horses was based on erroneous information.

Awaiting your reply, we have the honor to be,

Very truly, yours,

SHUNK & HUGHES.

PIERRE, S. DAK., February 22, 1898.

I, F. A. Dalton, of Chicago, Ill., hereby certify that I am a graduate of the Chicago Veterinary College, and that I have acted as the assistant of Prof. A. H. Baker, of Chicago, Ill., and as such assistant have had additional experience in the matter of the diagnosis and treatment of the diseases of horses; that at the request of R. Rousseau I came to the city of Pierre for the purpose of examining his bunch of horses known and described as the "R" brand, the same being located on the Cheyenne River Indian Reservation in said State of South Dakota; that I began such examination on February 2, 1898, and have been engaged in such examination for the term of seventeen days; that such examination was conducted in the presence of J. K. Seckler, who is an employee of such Indian agency as one of the superintendents of farming, and in the presence of one Sage; that the manner of examination was as follows: To catch and throw each of said animals, unless such animal was broken, and examine the nostrils, the mucous lining of the nose, and the lymphatic glands of the submaxillary space, examining the lymphatics of the arm and thigh. In case there was any suspicions of disease I then used the Mallein test. I also allowed any other person to select any animal on which to try said Mallein test.

I further certify that I used said test on some yearling colts from mares that I am informed were killed during the fall of 1897, and used said test on a certain bay gelding which had been condemned as glandered and shot during the fall of 1897, as I am informed and believed, and which survived the effect of such shooting, and that such horse or gelding shows no signs or evidences of such disease, nor did any of such colts or others examined. I examined, as herein stated, about 375 to 385 head of horses, and I hereby certify that such horses examined are free from glanders.

I found a few cases of catarrh and some cases of distemper among the colts. I further certify that all of said horses look and are in good condition, and that it would be an act of great injustice to cause said animals or any of them to be killed, and as entirely useless and wrongful destruction of property valued at about \$35 per head. I further certify that said Seckler and Sage watched carefully this examination, and can certify to the result as stated.

I further certify that I have no personal interest in this matter, and at the time of coming to Pierre I was an absolute stranger to all the parties referred to herein, as well as to Messrs. Shunk & Hughes, attorneys for said Rousseau.

Dated Pierre, S. Dak., February 22, 1898.

F. A. DALTON, M. D. C.

STATE OF SOUTH DAKOTA, *County of Hughes*:

I, W. L. Shunk, being duly sworn, on oath say that I have compared the foregoing with the original certificate made by Doctor Dalton, and in my possession, and that same is a true copy, also that of Mr. Sage.

W. L. SHUNK.

Subscribed and sworn to this 7th day of March, 1898.

CHAS. H. BURKE,

Notary Public, South Dakota.

STATE OF SOUTH DAKOTA, *County of Hughes, ss*:

Jeff H. Sage, being duly sworn, on oath says: That he is a resident of Sully County, S. Dak., and has been there resident for the term of fourteen years; is 42 years old, and that during his residence in Sully County, S. Dak., he has been engaged in the business of raising and handling horses; that by reason of such business he has had experience in detecting the disease of glanders, and in the manner and form in which it develops; that he was present at the examination of the "R" (Rousseau) brand of horses made

by Doctor Dalton, and held and examined each of said horses, except number of 68 head, which were examined during my absence; that I examined the nostrils, glands, and limbs of each of said animals, and found and discover no signs or evidences of such disease; that said horses are in condition and worth the sum of \$40 per head; that to kill and destroy horses would be a wanton destruction of property and a great injustice to the owner. At said examination there was present J. K. Seckler, one of the farmers on the Cheyenne River Indian Reservation. I was also present and assisted in the mallein tests made by Doctor Dalton, and that by said tests there were no evidences of glanders. There were seventeen or eighteen tests made with mallein. I further swear that I have no interest in said horses or any thereof.

JEFF H. S

Subscribed and sworn to before me this 1st day of March, 1898.

[SEAL.]

B. J. RINFORD,
Notary Public, South Dak

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.

Washington, March 15, 1898.

Messrs. SHUNK & HUGHES,

Attorneys, Pierre, S. Dak.

SIRS: I have to acknowledge receipt of your communication of March 14, 1898, inclosing copy of certain affidavits in the matter of "R" brand horses on the Cheyenne River Reservation, S. Dak.

In reply thereto you are advised that proper action is now being taken by this Department in regard to said horses before giving the agent at the Cheyenne River Agency final instructions in the premises.

Very respectfully,

W. A. JONES, *Commissioner*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS.

Washington, March 16, 1898.

PETER COUCHMAN,

United States Indian Agent Cheyenne River Agency, S. Dak.

SIR: I am in receipt of your communication of the 2d instant relating to the injunction proceedings instituted by the attorneys of Mrs. Esther Rousseau in the matter of glandered horses on the Cheyenne River Reservation, S. Dak. I am further proceeding likely to be instituted against you, etc.

In reply thereto you are advised that the following letter has this day been addressed by me to the honorable Secretary of the Interior, and the United States district attorney representing your district will doubtless receive necessary instructions from the Department of Justice in the near future, namely:

"Referring to Office letter of February 12 last, making full report in the matter of glandered horses on the Cheyenne River Reservation, S. Dak., stamped with the "R" brand and reported to be the property of Mrs. I. Rousseau, an Indian woman. I now have the honor to transmit herewith a copy of a letter from Peter Couchman, United States Indian agent at the Cheyenne River Agency, S. Dak., dated March 2, 1898, with accompanying inclosures, which it will be observed that injunction proceedings have been instituted against him by said Esther Rousseau to prevent the killing of her horses. The agent further states that he is informed that as soon as he shall have been relieved as agent said Mrs. Rousseau contemplates bringing a personal action against Doctor Elliott (the veterinary surgeon who, after a careful examination, reported said horses afflicted with glanders) and himself for damages sustained in the loss of the horses heretofore condemned and destroyed by (the agent) under proper authority of the Department.

"In view of the fact that Agent Couchman was carrying out instructions from the Department in killing glandered horses on the reservation under his authority, I have to respectfully recommend that the papers in the case be transmitted to the honorable Attorney-General, with the request that the proper United States

district attorney be instructed to defend Mr. Couchman in such proceedings as may have or may hereafter be instituted by said Esther Rousseau, or those acting in her behalf, in the matter herein referred to, and that this Office be informed as to the action taken in the premises, to the end that Mr. Couchman may be advised accordingly."

Very respectfully,

W. A. JONES, *Commissioner*.

COMMITTEE ON INDIAN AFFAIRS, UNITED STATES SENATE,
Washington, D. C., March 14, 1898.

Hon. WM. A. JONES,

Commissioner Indian Affairs, Washington, D. C.

DEAR SIR: I inclose herewith a paper in relation to the glandered horses on the Rosebud Reservation, belonging to R. Rousseau. I hope you will give this matter careful consideration.

Yours, respectfully,

R. F. PETTIGREW.

PIERRE, S. DAK., *February 22, 1898.*

I, F. A. Dalton, of Chicago, Ill., hereby certify that I am a graduate of the Chicago Veterinary College, and that I have acted as the assistant of Prof. A. H. Baker, of Chicago, Ill., and as such assistant have had additional experience in the matter of the diagnosis and treatment of the diseases of horses; that at the request of R. Rousseau I came to the city of Pierre for the purpose of examining his bunch of horses known and described as the "R" brand, the same being located on the Cheyenne River Indian Reservation in said State of South Dakota; that I began such examination on February 2, 1898, and have been engaged in such examination for the term of seventeen days; that such examination was conducted in the presence of J. K. Seckler, who is an employee of such Indian agency as one of the superintendents of farming, and in the presence of one Sage; that the manner of examination was as follows: To catch and throw each of said animals, unless such animal was broken, and examine the nostrils, the mucous lining of the nose, and the lymphatic glands of the submaxillary space, examining the lymphatics of the arm and thigh. In case there was any suspicions of disease I then used the mallein test. I also allowed any other person to select any animal on which to try said mallein test.

I further certify that I used said test on some yearling colts from mares that I am informed were killed during the fall of 1897, and used said test on a certain bay gelding which had been condemned as glandered and shot during the fall of 1897, as I am informed and believe, and which survived the effect of such shooting, and that such horse or gelding shows no signs or evidences of such disease, nor did any of such colts or others examined. I examined, as herein stated, about 375 to 385 head of horses, and I hereby certify that such horses examined are free from glanders.

I found a few cases of catarrh and some cases of distemper among the colts. I further certify that all of said horses look and are in good condition, and that it would be an act of great injustice to cause said animals or any of them to be killed, and an entirely useless and wrongful destruction of property valued at about \$35 per head. I further certify that said Seckler and Sage watched carefully this examination and can certify to the result as stated.

I further certify that I have no personal interest in this matter, and at the time of coming to Pierre I was an absolute stranger to all the parties referred to herein, as well as Messrs. Shunk & Hughes, attorneys for said Rousseau.

Dated Pierre, S. Dak., February 22, 1898.

F. A. DALTON, M. D. C.

STATE OF SOUTH DAKOTA, *County of Hughes, ss:*

Jeff H. Sage, being duly sworn, on oath says that he is a resident of Sully County, S. Dak., and has been there resident for the ten fourteen years; is 42 years old, and that during his residence in Sully County, S. Dak., he has been engaged in the business of raising and handling horses; that by reason of such business he has had experience in detecting the disease of glanders, and in the manner and in which it develops; that he was present at the examination of "R" (Rosseau) brand of horses made by Doctor Dalton, and examined each of said horses except the number of 68 which were examined during my absence; that I examined the trills, glands, and limbs of each of said animals and found and discover no signs or evidences of such disease. That said horse in good condition and worth the sum of \$40 per head; that to and destroy said horses would be a wanton destruction of property and a great injustice to the owner. At said examination there present J. K. Seckler, one of the farmers on the Cheyenne Indian Reservation.

I was also present and assisted in the Mallein tests made by Doctor Dalton, and that by said tests there were no evidences of glanders. There were 17 or 18 tests made with Mallein. I further swear that I have no interest in such horses or any thereof.

JEFF H. SAGE

Subscribed and sworn to before me this 1st day of March, 1898

B. J. BINFORD,
Notary Public, South Dakota

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 18, 1898

HON. R. F. PETTIGREW, *United States Senate.*

SIR: I have the honor to acknowledge the receipt of your communication of the 14th instant, transmitting certain copies of affidavits in the matter of brand horses on the Cheyenne River Reservation, S. Dak., and requesting the subject be given careful consideration.

In reply thereto you are respectfully advised that the Office is further investigating this matter before giving the United States Indian agent at Cheyenne River Agency, S. Dak., final instructions in the premises.

Very respectfully,

W. A. JONES, *Commissioner*

DEPARTMENT OF JUSTICE,
Washington, D. C., March 21, 1898

The SECRETARY OF THE INTERIOR.

SIR: In compliance with the request contained in your letter of the 14th instant, I have directed James D. Elliott, United States attorney for South Dakota, to defend the proceedings that have been, or may hereafter be, instituted on behalf of Mrs. Esther Rousseau against Peter Couchman, United States Indian agent, Cheyenne River Agency, and others for damages sustained by her in the loss of glandered horses condemned and destroyed by said agent under my authority.

Very respectfully,

JOHN W. GRIGGS,
Attorney-General

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS,
Washington, March 29, 1898.

PETER COUCHMAN,

United States Indian Agent, Cheyenne River Agency, S. Dak.

SIR: Referring to my letter of March 16 last, informing you as to the action taken on your communication of the 2d instant (relative to having the United States district attorney for South Dakota defend you in any proceedings instituted against you by Mrs. Esther Rousseau), you are now advised that this office is in receipt, by reference from the Department, of the following letter, dated March 21, 1898, from the Department of Justice, namely:

"The SECRETARY OF THE INTERIOR.

"SIR: In compliance with the request contained in your letter of the 17th instant, I have directed James D. Elliott, United States attorney for South Dakota, to defend the proceedings that have been or may be hereafter instituted on behalf of Mrs. Esther Rousseau against Peter Couchman, Indian agent, Cheyenne River Agency, and others, for damages sustained by her in the loss of glandered horses condemned and destroyed by said agent under proper authority.

"Very respectfully,

JOHN N. GRIGGS,
"Attorney-General."

Place yourself in communication with said United States attorney at the earliest practicable date, if you deem this course necessary at the present time, and supply him with such information as he may call for.

Very respectfully,

W. A. JONES, *Commissioner.*

LAW OFFICE OF SHUNK & HUGHES,
Pierre, S. Dak., March 23, 1898.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

MY DEAR SIR: We have the honor to acknowledge the receipt of your letter in re "R" brand of horses; also your telegram. While the honorable examiner is at Cheyenne we will try to have him make some examination of the facts as to the "R" horses and report them to you.

Very truly, yours,

SHUNK & HUGHES.

LAW OFFICE OF SHUNK & HUGHES,
Pierre, S. Dak., April 6, 1898.

HON. W. S. JONES,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR SIR: We are in receipt of your letter stating that further investigation would be made in regard to the "R" brand of horses. When final decision is reached, may we ask, on behalf of Mrs. Rousseau, that we, as her attorneys, be informed of the result.

We have the honor to be, very truly, yours.

SHUNK & HUGHES.

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., ——— —, —.

The SECRETARY OF THE INTERIOR.

SIR: Referring to previous correspondence regarding the alleged prevalence of glanders among the "R" brand of horses on the Cheyenne River Indian Reservation, S. Dak., I have the honor to forward herewith a report of the inspector of this Department, Dr. Robert H. Treacy, and the veterinary surgeon detailed by the War Department to assist in making this examination, for such action as you may deem advisable.

Very respectfully,

JAMES WILSON, *Secretary.*

FORT YATES, N. DAK., April 4.

The SECRETARY OF THE INTERIOR,
Washington, D. C.

SIR: In compliance with instructions received through the Department War and Agriculture, we have the honor to report that we met at the Cheyenne River Indian Agency on March 17 and proceeded to the Rousseau ranch, 100 miles south of that point on the Cheyenne River, where the "R" brand horses are located. We expected to find the brand still closely herded by the riders previously had been, to await our examination, but were informed they had scattered into small bands covering a territory of over 50 square miles. With the assistance of some Indian police and Rousseau's men we had them rounded up and corralled as found by the riders daily, and in all to 376 head. These are all that could be found and, from the reliable information we could get, we believe that not more than 50 others. It was extremely difficult to gather these horses on account of previous wars, killing of the leaders, etc., which caused the breaking up of her small bunches in a rough, broken country of the "Bad Land" variety, consequently very difficult to find.

These horses, being range bred, were very wild, and while all seemed perfectly free from any disease, to comply strictly with instructions we had 300 head roped by the front feet and thrown, critically examined, and branded with scissors brand. The ones not thrown were mares about to foal. We considered it an injustice to the owner, as well as inhumane, to subject to such violence, having satisfied ourselves that there was no evidence of glanders. Out of the 300 cast and examined 24 head were selected for the mallein test, consisting of all ages and animals that had been previously condemned by Doctor Elliott. Out of this number tested by mallein but 3 showed a reaction, these being low-conditioned saddle animals confined in a small log corral during test with but poor forage and showing not even infinitesimal evidence of a glanderous nature (vide mallein forms marked "C," "I," "E"). One, and the only one, that showed positive signs of glanders was an unbranded 5-months-old colt, which showed superficial symptoms of glanders and which, we were informed, with its dam, had affiliated with the Cheyenne Indian horses, two of which were condemned for chronic glanders by veterinarians that had preceded us, viz, Doctors Karn, South Dakota; and of Fort Meade, and Dalton, of Chicago.

This colt and its dam, a roan mare 7 years old, we had isolated and kept in the mallein test, without reaction in either case (vide mallein forms A and B). We afterwards destroyed the colt for post-mortem examination, and portions of the deceased tissue and pus are herewith submitted for microscopical examination by the Bureau of Animal Industry. The septum nasi was almost completely eaten away, but the lungs showed little, if any, appearance of glanders. The dam had a slight, clear mucous discharge from the left nostril, and other symptoms. This mare was very wild and fought hard every time she was cast, as she had to be at each examination. Her temperature varied but nothing more than was consistent with her condition at the time, or with a state of excitement and exhaustion.

In undoubtedly sound horses we found a decidedly marked increase in temperature when the operation of catching and casting was protracted until late in the day. For instance, the first horse caught and cast out of bunch in corral in the morning would register normal temperature, the second would show a slight increase, and so on, till the last of the band caught in the evening has sometimes registered as high as 104.8, though undoubtedly free from disease. The territory over which the "R" brand range, commingling with upward of 4,000 head of horses of other brands and owners, extends from the Mureau River and it extends on the north to the Cheyenne River and its tributaries on the east by the Missouri River and extending westward indefinitely; and as we have no doubt that glanders exists to a great extent among the numerous horses mentioned on the Cheyenne River Indian Reservation, we would earnestly recommend that later in the season (about the middle or end of June), when the grass is good and the mares have foaled, a usual distemper among colts has passed away, all horses within the reservation be thoroughly rounded up and that we be authorized to employ a few riders and ropers, examine all horses so rounded up at different points and destroy all found affected with glanders.

This is the only radical means we know of for eradicating this disease, doing justice not only to the residents of the Indian reservation, but to the

of South Dakota. This examination might be extended to the Standing Rock Reservation, where glanders has been detected by one of us (Corcoran) from time to time. Believing that you require a full report and an expression of opinion on the reports of preceding veterinarians employed by the Indian agent at Cheyenne River Reservation, we have the honor to respectfully state that, having read Doctor Elliot's report and sweeping recommendation for the destruction of all the "R" brand horses, it is evidenced to us by the condition in which we found them, by the information we had from reliable employees, unprejudiced and impartial in the matter, and by the letter of one Doctor Karns, respectfully submitted, acknowledging himself both cowardly and untruthful, we have come to the conclusion that neither one was, to say the least, reliable; and indications of a pernicious persecution pervade this whole matter.

We think it but just to mention that we were earnestly and energetically assisted in our investigations by Mr. J. K. Seckler, assistant farmer, Cheyenne Agency; by Mr. J. H. Sage, Okobogo, S. Dak., as well as by the Rousseau family and their employees.

Trusting that this report will be considered satisfactory by the Department, we have the honor to be,

Very respectfully,

RICHARD B. CORCORAN,
Veterinarian, Eighth Cavalry, U. S. Army.
ROBT. H. TREACY,
Veterinarian, Bureau Animal Industry.

WEBSTER, S. DAK., February 5, 1898.

MR. J. K. SECKLER.

Cheyenne River Agency, S. Dak.

DEAR SIR: No doubt you will imagine I have quite forgotten the kindness paid to me while on the reserve by you and Mrs. Seckler, but such is not the case; it has been merely a matter (as you might say) of neglect, and trust you will pardon. As in regard to Mr. Rousseau's horses, I could not help but send in the report I did, which no doubt you have heard ere this. In the first place, from local observation you know that from first sight the appearance of the horses were favorable, and probably I used a little deceit, which I know was not right, and after taking the temperature I found that I had got into a nest, and policy, I thought, was the better valor. My report was, "The horses belonging to Mr. R. Rousseau and branded with the 'R' brand I diagnose as glandered." I made five different tests of the serum I brought back with me, and in every case it proved to be glanders. I have all my slides belonging to the tests, which have undergone the microscopic examination. I took a field mouse and injected some of the serum into his body and he died in twenty-four hours; then took the serum from the viscera of the same mouse and made an examination of the same and still found glanders, so I think I am justified in sending in my report as I have done. Well, I must close, as it is midnight, and trust that you are all well. With best respects to the family and yourself, and hoping to hear from you in the near future, I remain,

Respectfully, yours,

L. C. KARN.

COMMITTEE ON INDIAN AFFAIRS.
UNITED STATES SENATE.
Washington, D. C., April 20, 1898.

HON. WILLIAM A. JONES,

Commissioner Indian Affairs, Washington, D. C.

DEAR SIR: Will you please send me a copy of all reports received at your office in relation to glandered horses on the Cheyenne River Indian Reservation, S. Dak., particularly the report of the State veterinarian of North Dakota, and also of the veterinarian from Fort Yates?

Yours, respectfully,

R. F. PETTIGREW.

CLAIM OF ESTHER ROUSSEAU.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 25, 1898.

Hon. R. F. PETTIGREW,
United States Senate, City.

SIR: Agreeably with the request contained in your communication of the 20th instant, I have the honor to transmit herewith copy of report of J. W. Elliott, State veterinarian of South Dakota, dated February 4, 1898, and copy of joint report of Richard B. Corcoran, veterinarian, Eighth Cavalry, U. S. Army, and Robert H. Trency, veterinarian, Bureau of Animal Industry, dated April 4, 1898, in relation to glandered horses on the Cheyenne River Indian Reservation, S. Dak.

Very respectfully,

W. A. JONES, *Commissioner.*

DEPARTMENT OF JUSTICE,
Washington, D. C., May 2, 1898.

The SECRETARY OF THE INTERIOR.

SIR: In further reply to your letter of the 17th of March, I have the honor to inclose herewith, for your information, a copy of a letter of the 25th ultimo from the United States attorney for South Dakota, in which he states that he is negotiating with the attorneys for plaintiff in the suit of Esther Rousseau v. Peter Couchman, agent at the Cheyenne River Agency, growing out of the condemnation of certain horses, with a view of having the entire proceeding held up until final action is determined by the Department (of the Interior) in the premises. A copy of Department letter of the 11th of April, to which the United States attorney refers in his letter of the 25th ultimo, is also inclosed herewith.

Very respectfully,

JOHN W. GRIGGS,
Attorney-General.

—
SIOUX FALLS, S. DAK., April 25, 1898.

Hon. JOHN W. GRIGGS,
Attorney-General, Washington, D. C.

DEAR SIR: Answering your favor, which reached me in the midst of the Sioux Falls term, I would have answered sooner, but am negotiating with the attorneys for the plaintiff with a view of having the entire proceedings held up until final action is determined by the Department in the premises, the attorneys stating to me that the Department had ordered a further examination.

My suggestion as to the issuance of a new order is therefore entirely unnecessary. I am satisfied I now have the matter in hand with the attorneys, so that in case the former action of the Department is affirmed I can put in an answer for Agent Couchman and proceed as if he was not in default.

Yours, respectfully,

JAS. D. ELLIOTT,
United States Attorney, South Dakota.

—
DEPARTMENT OF JUSTICE,
Washington, D. C., April 11, 1898.

JAMES D. ELLIOTT, Esq.,
United States Attorney, Sioux Falls, S. Dak.

SIR: The Department does not fully comprehend the meaning of that portion of your second letter of the 26th ultimo in which, referring to the action instituted in a State court in South Dakota by Esther Rousseau against Peter Couchman, agent at the Cheyenne River Agency, growing out of the condemnation of certain horses, you ask whether it would not be better to "issue a new order to the agent who will doubtless qualify very soon."

You are on the ground and in a position to be better acquainted with the necessities of the case and the local public service than the Department is, and what is best to be done in the matter is left to your discretion.

Respectfully,

JOHN W. GRIGGS,
Attorney-General.

SIOUX FALLS, S. DAK., March 26, 1898.

HON. JOHN W. GRIGGS,

Attorney-General, Washington, D. C.

DEAR SIR: Since writing you to-day relative to an action pending against Peter Couchman, agent at Cheyenne River Agency, by Esther Rousseau, owner of certain horses ordered to be killed by the Department, I am satisfied that the agent and the other defendants are in default and a judgment is doubtless entered, giving the plaintiff the possession of all of the horses, and also a permanent order of injunction restraining the agent from killing the horses. What is the policy of the Department? If this order is entered, shall I make an effort to open the default and interpose an answer setting up the fact that the horses were glandered, or would it not be better to issue a new order to the agent, who will doubtless qualify very soon?

I write this at this time to save delay, if the former course is desired. Of course I shall do nothing until I hear from the attorney for the plaintiff, so that I may know just what has been done.

Yours, respectfully,

J. A. ELLIOTT,

United States Attorney, South Dakota.

ABERDEEN, S. DAK., May 7, 1898.

HON. W. S. JONES,

Commissioner of Indian Affairs, Washington, D. C.

DEAR SIR: On June 28, 1897, I had the honor to submit to your Department a report relative to the "R" brand of horses, belonging to one Rousseau, of Cheyenne Indian Agency, S. Dak. Thereafter L. C. Karn, of Webster, S. Dak., a practicing veterinarian, made an examination of said horses and confirmed my report as to the appearance of glanders among them.

It further appears that in March, 1898, Veterinarians Corcoran and Treacy examined the same herd, as claimed by them, and on April 4, 1898, made a report adversely to and positively contradicting the reports above mentioned. At this time the Department must be unable to determine the actual status of said herd, as there appears to be a conflict of opinions.

As a matter of protection to the people on the range and horse raisers generally, and as a matter of justice to the owner of said horses, it should be determined to the complete satisfaction of the Department which report can be relied upon.

In making the examination of the horses on which the above report was based I carefully preserved the proof necessary to substantiate my position fully and completely. I must say that the report of Doctors Corcoran and Treacy was based on either inability as veterinarians, biased by some outside influence, or on misleading and concocted proofs submitted to them by interested parties.

I respectfully ask that the Department determine this matter by a competent and unbiased examination, in order that justice may be done to all, especially the horse breeders of this State.

The infected animals of this herd are constantly being sold and scattered throughout the State.

Respectfully submitted.

W. J. ELLIOTT,

State Veterinarian.

HON. GEORGE H. BINGENHEIMER,

United States Indian Agent, Standing Rock Agency, N. Dak.

SIR: We are informed by the State veterinarian that the constant outbreaks of glanders in counties bordering on the reservation originate from Indian horses over which this official has no control. Will you kindly cooperate with the health officials in this matter and keep the Indian horses on said reservation until they have been examined by a health officer authorized by the Government?

WM. BAXTER,
ALEX. MACDONALD,
JAKOL FISCHER,*County Commissioners Emmons County, N. Dak.*

CLAIM OF ESTHER ROUSSEAU.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS.

Washington, March 24, 1899.

Hon. H. C. HANSBROUGH,

United States Senate.

SIR: I have the honor to acknowledge receipt, by your reference, of a communication from the county commissioners of Emmons County, N. Dak., relative to the existence of glanders among Indian horses of the Standing Rock Reservation, N. Dak.

In reply thereto you are advised that the matter has this day been brought to the attention of the agent in charge of said reservation, with directions that he make full investigation and report his conclusions to this office, together with such suggestions or recommendation as he may deem right and proper in the premises.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS,

Washington, March 25, 1899.

GEO. H. BINGENHEIMER.

United States Indian Agent, Standing Rock, N. Dak.

SIR: I am in receipt, by reference from Hon. H. C. Hansbrough, United States Senate, of a letter, without date, of which the following is a copy, viz:

"Hon. GEORGE H. BINGENHEIMER,

"United States Indian Agent, Standing Rock Agency, N. Dak.

"SIR: We are informed by the State veterinarian that the constant outbreaks of glanders in counties bordering on the reservation originate from Indian horses, over which this official has no control. Will you kindly cooperate with the health officials in this matter and keep the Indian horses on said reservation until they have been examined by a health officer authorized by the Government?"

"WM. BAXTER,

"ALEX. MACDONALD,

"JAKOL FISCHER.

"County Commissioners Emmons County, N. Dak."

In order that further consideration may be given this matter, you are directed to make full investigation into this subject and submit written report to this Office, with such suggestions or recommendation as you may deem right and proper in the premises.

Please give this your immediate attention.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

STANDING ROCK AGENCY, N. DAK., April 7, 1899.

The COMMISSIONER OF INDIAN AFFAIRS,

Washington, D. C.

SIR: Acknowledging receipt of office letter of the 25th ultimo, as to the existence of glanders on this reservation, I have the honor to invite attention to inclosed report of Aaron C. Wells, additional farmer in the Cannon Ball district, which district adjoins Morton County, N. Dak.; also to petitions of the county commissioners of Morton, Emmons, and Burleigh counties, which have been received at this agency bearing on the same subject.

I, however, recommend that the State veterinarian of North Dakota be allowed to make such examinations as may be deemed proper of the horses in the Cannon Ball district of this reservation and that the expense of such examinations be paid by the Government. William Mackin, of Mandan, is the State veterinarian.

Very respectfully, your obedient servant,

GEO. H. BINGENHEIMER,
United States Indian Agent.

CANNON BALL STATION, April 5, 1899.

Maj. G. H. BINGENHEIMER,

United States Indian Agent.

DEAR SIR: Your letter of the 1st and 4th instant received, in regard to supposed glandered horses in the district. I had a talk with Frank Black Hawk, and I found a horse about where he said there was one, at or near Goodwood Creek, by Thomas Ashley's place, belonging to a Indian by the name of Whiteman. This horse is, as Black Hawk says it is, running at the nose, also running sores from the glands of the upper part of his jaw. This horse I am sure is distemper, not glanders. There is about 30 or 50 head affected in the same way, caused by overwork and poor condition, and when they get the distemper then they are turned out to rustle best they can, and they are so poor and with the distemper often cause death. With the help of police I am trying to keep close watch of this disease, not only for the benefit of the Indians, but as much for myself, as I have over 100 head running on this range. We have had this distemper every year since I have been here. Some years not so bad as other years. I have examined many of them after death and their nostrils do not show glanders. I am fairly posted on this disease, and believe that I could tell if I were to see glanders from distempers, and I have not seen any that I would call glanders so far. I will, however, continue to keep close watch of this disease and will examine more after they are dead.

Yours, respectfully,

A. C. WELLS.

APRIL 20, 1899.

The SECRETARY OF THE INTERIOR.

SIR: Under date of February 12, 1898, this office submitted a full report to the Department relative to the alleged existence of glanders among horses on the Cheyenne River Reservation, S. Dak., the steps taken up to that time to stamp out the disease, etc., and recommended that the honorable Secretary of Agriculture and the honorable Secretary of War be requested to detail competent persons from their Departments to proceed to the Cheyenne River Agency, S. Dak., and make a rigid and careful examination of all horses stamped with the "R" brand and belonging to one Rousseau, and that the experts make full report in the matter after completion of their duties, accompanied by such recommendations as to the case might demand. A copy of said office letter is respectfully transmitted herewith for your information in the premises. Experts were subsequently detailed by the Agricultural and War Departments for this service, and their original joint report of April 4, 1898, is also transmitted herewith.

I have also the honor to inclose herewith copies of communication from the United States Indian agent at the Standing Rock Agency, N. Dak., dated April 7, 1899; also petitions from the county commissioners of Morton, Emmons, and Burleigh counties, N. Dak., relative to the alleged existence of glanders on the Standing Rock Reservation, and soliciting that an expert make a rigid examination of the horses on said reserve with a view to stamping out the disease.

The agent recommends that "the State veterinarian of North Dakota be allowed to make such examinations as may be deemed proper of the horses in the Cannon Ball district * * * and that the expense of such examination be paid by the Government."

In the said joint report of Doctors Corcoran and Treacy the following appears:

"* * * And as we have no doubt that glanders exists to a great extent amongst the numerous horses mentioned (the "R" brand) on the Cheyenne River Indian Reservation, we would earnestly recommend that later in the season (about the middle or end of June), when the grass is good, and mares have foaled, and the usual distemper amongst colts has passed away, all horses within the reservation be thoroughly rounded up, and that we be authorized to employ a few expert riders and ropers, examine all horses so rounded up, at different points, and destroy all found affected with glanders.

"This is the only radical means we know of eradicating this disease and doing justice not only to the residents of the Indian reservation, but the State of South Dakota. This examination might be extended to the Standing Rock Reservation, where glanders has been detected by one of us (Corcoran) from time to time * * *."

In view of the fact that an injunction was secured from the court by said Rousseau when an effort was made by the agent of the Cheyenne River Agency, S. Dak., to carry out the instructions of the Department relative to the killing of all glandered horses of the "R" brand owned by Rousseau, that orders were subsequently given the agent to take no further action in the premises until further advices from the office, as the suit instituted by said Rousseau against the agent has been held up until final action is determined by the Department (as shown by original letter from the Department of Justice herewith), as claims against the Government will in all probability be presented in case glandered horses are killed, I have to respectfully recommend that the papers in the case be referred to a United States Indian Inspector of the Department for full investigation, report, and recommendation in the matter of glandered horses on both the Cheyenne River and Standing Rock reservations, and that when said report, etc., shall have been received the Department give this office such instructions in the premises as may be deemed necessary with a view to entirely wiping out this disease from the two reservations mentioned.

Very respectfully,

W. A. J., *Commissioner*.

APRIL 17, 1899.

THE SECRETARY OF THE INTERIOR.

SIR: I have the honor to inclose herewith copies of communication from the United States Indian agent at the Standing Rock Agency, N. Dak., dated April 7, 1899, also petitions from the county commissioners of Morton, Emons, and Burleigh counties, N. Dak., relative to the alleged existence of glanders on the Standing Rock Reservation, and soliciting that an expert make a rigid examination of the horses on said reserve with a view of stamping out the disease.

The agent recommends "that the State veterinarian of North Dakota be allowed to make such examination as may be deemed proper of the horses in the Cannon Ball district * * * and that the expense of such examinations be paid by the Government."

I can not concur in the agent's request, but have the honor to recommend that the honorable Secretary of Agriculture be requested to detail a competent person from his Department to visit the Standing Rock Reservation, N. Dak., and make a very rigid examination of all horses on the reserve, whether belonging to the Government, the Indians, or other persons, with a view to determine whether or no glanders exists on the reserve, and that this Department be advised as to the name and address of the party so detailed.

It is also recommended that authority be granted the United States Indian agent at the Standing Rock Agency, N. Dak., to expend such sum as may be absolutely necessary in the payment of the traveling and incidental expenses that may be incurred by the person so detailed by the Agricultural Department while carrying out the orders of the Department, payment therefor to be made upon presentation of proper voucher and subvouchers (in triplicate), the original voucher to be duly sworn to. A number of blank vouchers and subvouchers are herewith transmitted for use of the person that may be detailed, subvouchers to be attached to voucher before payment is made by the agent. Settlement to be made from appropriation "Support of Sioux, different tribes, subsistence and civilization, 1899."

It is further recommended that authority be granted said agent to destroy, in the most humane manner, all horses that are found to be suffering from glanders, after examination by said Government expert, whether said horses are the property of the Government, the Indians, or others residing on the reservation; provided, however, that no promise whatever be made as to compensation for stock so destroyed, this course being deemed absolutely necessary in order that the disease, if found to exist, may be thoroughly wiped out.

Very respectfully,

W. A. J., *Commissioner*.

FEBRUARY 12, 1898.

THE SECRETARY OF THE INTERIOR.

SIR: Under date of December 17, 1897, the Department granted authority for the United States Indian agent at the Cheyenne River Agency, S. Dak., to purchase cartridges, employ labor, etc., incident to the killing and cremation of "R" brand horses on said reservation suffering from "glanders" and condemned by two competent veterinary surgeons employed by the agent under proper authority from the Department.

The agent in charge of the Cheyenne River Agency, S. Dak., subsequently took the necessary steps to carry out the directions of the Department.

Under date of January 22, 1898, Hon. R. F. Pettigrew, United States Senate, addressed the following letter to this office, viz:

"I inclose a telegram about which I telephoned you this afternoon. I asked that this order be suspended for further investigation. I know these parties and think the order should be suspended as they request. Will you please telegraph Agent Couchman to that effect?"

The telegram referred to in Senator Pettigrew's letter was from John F. Hughes, dated Pierre, S. Dak., January 21, 1898, and reads as follows:

"An order has been issued by Indian Office or Secretary Interior ordering "R" brand of horses on Cheyenne River Agency, S. Dak., immediately killed. Client Rousseau has just heard of this order and has had no time to appear and show erroneous. Have this order suspended by wire to Major Couchman, agent Cheyenne River Agency, S. Dak., for few days to enable Rousseau to have horses further examined. Government Surgeon Tracey, at Fort Meade, S. Dak., after thorough examination, reports to Rousseau that horses are free from glanders. We have other surgeons coming and want time for examination. This can do no harm and will save to Rousseau all the property she has, worth \$25,000. Answer my expense."

In compliance with Senator Pettigrew's request the following telegram was transmitted to Agent Couchman by this Office on the 22d ultimo, viz:

"Suspend order to destroy glandered horses of "R" brand until further orders."

The following letter was also addressed by me to Senator Pettigrew on the same date, viz:

"In compliance with your request of this date, based upon a telegram of John F. Hughes, of Pierre, S. Dak., I have telegraphed the United States Indian agent at Cheyenne River Agency, S. Dak., to suspend the destruction of glandered horses of "R" brand until further orders. As Mr. Hughes asks that the order be suspended for a few days only, I have telegraphed Agent Couchman with the understanding that the suspension shall be for a very brief period, unless it can be clearly shown that the order is erroneous."

I now have the honor to inclose herewith copy of a letter from Messrs. Shunk & Hughes, of Pierre, S. Dak., attorneys for Mrs. Esther Rousseau, the alleged owner of the "R" brand horses ordered killed, as cited above; also copy of Mrs. Rousseau's petition, praying that said order be suspended and a further examination made of her horses, for reasons set forth therein.

I also inclose a communication from J. W. Elliott, State veterinarian for South Dakota (who made the first examination of said "R" brand, and recommending the destruction of the entire herd, which recommendation was subsequently concurred in by L. C. Karn, veterinary surgeon, who made an additional examination of said brand under authority from the Department dated October 7, 1897), setting forth fully the history of the case, and stating:

"* * * In 1897 I was again called, and this time succeeded in rounding up all or nearly all of that (Rousseau) brand of horses, and after a careful and thorough examination of all those horses, with a keen sense of the responsibility involved, I was forced to the conclusion that there was nothing to do in this case but to condemn the whole "R" brand of horses. My judgment has since been corroborated by Dr. L. C. Karn, who is a graduate of Toronto Veterinary College.

"We have tested the virus from these horses by all the different tests known to the profession, and are prepared to sustain our opinions with the best of proof at any time. There is no doubt about this disease being glanders.

"As State veterinarian I am unable to cope with this disease, as our legislature failed to make any appropriation for my office. As these horses are upon Government lands and under the jurisdiction of the United States I am unable to reach them.

"These horses are being spread all over the State, infecting the stock sections, and I consider it the duty of the General Government to detail one to look after this matter, or empower me with sufficient authority to proceed.

"I shall be pleased to furnish you with any information in my power and to cooperate with any person you may appoint for this work."

In this connection I might add that "glanders" was first discovered on horses on the Cheyenne River Reserve in 1891, and the Department has time to time since that date authorized the agent in charge of said reserve to expend large sums of money in the employment of veterinary surgeons to examine and kill horses afflicted with said disease. It now appears the only course left to stamp out the disease from the reservation is to destroy the entire "R" brand, as authorized by the Department.

Before taking further action in the premises, and in order that no injustice may be done the owner of the horses, I have to respectfully recommend that the honorable Secretary of Agriculture be requested to detail a competent person from his Department to proceed to the Cheyenne Agency, S. Dak., and make a rigid and careful examination of all horses stamped with the "R" brand and belonging to said Rousseau; and the report be made in the matter, with such suggestions or recommendations as may be deemed right and proper, to the end that the order for the destruction of said horses may be carried out without delay, or that same be entirely.

It is further recommended that the name of the party so detailed be communicated to this Office, and that he proceed to said Agency at the very earliest possible moment.

The actual and necessary traveling expenses of the person detailed from the Department of Agriculture will be made by this Office from appropriate "Support of Sioux, different tribes, subsistence and civilization, 1892" presentation of proper voucher (in duplicate), with subvouchers thereunto.

Very respectfully,

W. A. J., *Commissioner*

MANDAN, N. DAK., September 14

HON. GEORGE H. BINGENHEIMER,

United States Indian Agent Standing Rock Agency, N. Dak.

SIR: We the undersigned county commissioners of the county of Morton, N. Dak., in behalf of the people of this county petition as follows: Inasmuch as this county adjoins the Standing Rock Agency, the horses belonging to Indians residing on said agency mingle and mix with horses belonging to the settlers residing in this county; and inasmuch as the horses belonging to Indians have in several cases been subject to a disease called "glanders" which have spread such disease among the horses belonging to the adjoining county; and inasmuch as our district veterinary has informed us officially that if such cases do exist among the horses belonging to said Indians, we do respectfully petition and ask that said horses belonging to the Indians on the Standing Rock Agency be submitted to a rigid examination, with a view to isolate such cases and to stop the spreading of the disease.

We desire that you take this matter up through the proper channels and that it be acted upon at once and thereby give our settlers the relief asked for.

We are, respectfully,

H. H. BROWN,
E. R. SHEPPARD,
WM. ENGELTER,
C. P. O'ROURKE,
D. L. FOUST,

Board of County Commissioners Morton County, N. Dak.

HON. GEORGE H. BINGENHEIMER,

United States Indian Agent, Standing Rock Agency, N. Dak.

SIR: We are informed by the State veterinarian that the constant outbreaks of glanders in counties bordering on the reservation originate from Indian horses, over which this official has no control. Will you kindly cooperate with the health officials in this matter and keep the Indian horses on said reservation until they have been examined by a health officer authorized by the Government?

HARVEY HARRIS,

G. W. JOHNSON,

GEO. A. WELCH,

County Commissioners, Burleigh County, N. Dak.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS,

Washington, April 21, 1899.

HON. H. C. HANSBROUGH,

United States Senate, City.

SIR: Referring to your indorsement on petition from the county commissioners of Emmons County, N. Dak., requesting that steps be taken by the Government looking to the suppression of glanders among horses on the Standing Rock Reservation, N. Dak., you are respectfully informed that a full report has been submitted to the honorable Secretary of the Interior relative to the existence of glanders on the Cheyenne River and Standing Rock reservations, with the request that a United States Indian inspector of the Department make a full investigation, report, and recommendation on the subject, and that when said report, etc., shall have been received this Office be given such instructions in the premises as may be deemed necessary, with a view to having said disease entirely wiped out from said reservations.

Very respectfully,

W. A. JONES, *Commissioner.*

ABERDEEN, S. DAK., *August 22, 1899.*

HON. W. A. JONES,

Commissioner Indian Affairs, Washington, D. C.

DEAR SIR: I hand you herewith a letter addressed to me by Dr. F. H. Files, Sioux Falls, S. Dak., president State board of health, which letter fully explains itself. Personally I am not familiar with the latitude open to your Bureau in such matters, but the glandered stock in the vicinity mentioned has long been a great source of annoyance and expense to farmers, and I shall be glad to have you take any steps within your power to ascertain whether there are, in fact, glandered horses on the Cheyenne River Agency Reservation, and, if possible, stamp out the disease if found to exist.

Respectfully,

JAMES H. KYLE.

BANGOR, S. DAK., *July 19, 1899.*

PRESIDENT STATE BOARD OF HEALTH.

Pierre, S. Dak.

SIR: In the last year the loss to the taxpayers for the inspection and final disposition of glandered horses has amounted to many hundreds of dollars, and this does not take into account the losses to the unfortunate owners of the animals, and there is very good reason to believe that the disease prevalent in this county can be traced to infection by horses from the great Sioux Reservation in every case.

In fact, there has not been a single case in the eastern side of the county, which is farthest removed from the Missouri River and the reservation.

The loss to the county of Walworth is a very serious matter, and we take the liberty of suggesting to your honorable board that the General Government be requested to cause an inspection of the condition of the horses kept by the Sioux Indians and something done to protect the counties bordering upon the reservation from losses they are unable to bear.

During the winter months there is free intercourse between the west and the east side of the river by means of the ice bridge, and the river crossings are never without the disease.

It has prevailed along the river in this county since the year 1883 of my personal knowledge of the writer, at which time there were bands of horses kept on this side of the Missouri.

Very respectfully,

W. H. BURNS, *President*
Walworth County, S.

SIoux FALLS, S. DAK., *August 15.*

State board of health of South Dakota in regular session assembled.

Whereas reports have frequently reached this board of health from boards of health adjacent to the Indian reservations in the State of Dakota that some contagious disease, supposed to be glanders, has for some time afflicted the horses in that locality, and that it is claimed to have been communicated by the horses belonging to the said Indians, and that it being the cause of great financial loss to the people of that community, the board of health, do hereby request the Indian Bureau at Washington to investigate this matter at the expense of the Government.

FREDERIC H. FILES, *President*

A. E. CLOUGH, *Secretary*.

STATE BOARD OF HEALTH

Sioux Falls, S. Dak., August 21,

Hon. J. H. KYLE, *Sioux Falls, S. Dak.*

MY DEAR SIR: Please find inclosed correspondence from the superintendent of Walworth County board of health, South Dakota. I also transmit a copy of the action of the State board of health in re the subject consisting of these communications.

The State board of health have no way to investigate or stamp out the disease of glanders in unorganized counties on the Sioux Reservation. There are no funds in the possession of the State board of health to pay for this work. The information received by this board does not state specifically upon what Indian reservations the disease of glanders is prevalent, but it is quite possible that it may infect roving herds of horses.

It occurs to this board that this is a matter of importance to the Government, and for this reason this communication is addressed to you. It is the expressed wish that you refer it to the proper Department at Washington with your recommendation that the Government take such steps as may be deemed necessary to investigate the question of the existence of glanders on the Indian reservations west of the Missouri River. This board will cooperate with the Government in every way possible, and, should the Government request, will undertake to furnish more definite information as to the localities affected by this disease.

Very respectfully, yours,

F. H. FILES,
Superintendent State Board of Health

Proceedings of the county board of health for Walworth County, S.

The board met as per call by the president on this 10th day of July, 1899. Present: W. H. Burns, president; Dr. H. R. Gunderman, superintendent; and Dr. A. Bell, vice-president.

Dr. H. R. Gunderman stated to the board that it had been reported that a certain horse in the possession of John Morris, of Walworth County, then temporarily absent from the county, was affected with a disease resembling glanders. State veterinarian, Doctor Elliott, being called from Aberdeen, S. D., the horse on or about May 22, and found the animal free from glanders. Doctor Elliott also examined a horse belonging to Mr. Hilde, of Walworth County, the horse being likewise reported to be affected with glanders, and found it also free from contagious disease.

It was moved and seconded that the action of the superintendent be approved by the board.

Dr. H. R. Gunderman reported further that on the 5th day of June, 1899, a horse was brought to Bangor, Walworth County, S. Dak., by Louis Larson, of said county and State. Suspicion existing that this horse was affected with glanders, the animal was kept under quarantine and examined under supervision of J. P. Foster, of Bangor, S. Dak., as to the existence of the disease, Mr. Foster making use of the mallein test, and Mr. Larson agreeing to accept Mr. Foster's opinion as final and to destroy the animal if found diseased as stated, holding the county blameless in the matter whatever the result might be. The horse was found affected with glanders and the animal was ordered to be killed and the carcass destroyed by fire.

Upon motion the action of the superintendent in this matter was approved by the entire board.

Dr. H. R. Gundermann reported further that on the 6th day of July, 1899, Louis Larson, of Walworth County, S. Dak., reported to him that he had lost during the last year six animals by disease, presumably glanders in every case; that he had now nine horses left, some of which he believed to be affected with the same disease in a latent form at present. Mr. Larson's signing an agreement to the same effect as before, the same test was applied, with the result that out of nine horses four were found to be affected as supposed, two were pronounced to be suspicious and subjects for a further examination later on, and three horses were found to be free from contagious disease.

Upon motion the board approved the subsequent action of the superintendent to the effect of the destruction of the four animals diseased, the keeping under quarantine of the suspicious animals, and the consuming by fire of the stable of Louis Larson wherein the diseased animals had been kept, this stable being a public danger to animals as well as to human beings.

It was further moved and carried that the State board of health of South Dakota be requested to take such action as would cause a careful inspection of the horses kept by Indians on the great Sioux Reservation as a protection to the owners of horses in the counties bordering on the said great Sioux Reservation and throughout the State of South Dakota against glanders and other infectious diseases of animals, the counties bordering on this reservation meeting with great losses on account of the prevalence of glanders and because in every case almost the starting point of this disease can be traced to horses coming from the reservation.

Moved and seconded to have the meeting of the board published in both papers in the county.

W. H. BURNS,
President County Board of Health.

H. R. GUNDERMANN, M. D.,
Superintendent County Board of Health for Walworth County, S. Dak.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, September 19, 1899.

HON. JAMES H. KYLE, *Aberdeen, S. Dak.*

SIR: I have the honor to acknowledge receipt of your letter of August 22, inclosing correspondence between members of the South Dakota board of health relative to glanders stock in the vicinity of Cheyenne River Reservation, and in reply will state that the matter is under investigation, and if the disease is found to exist proper action will be taken to stamp it out.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

ABERDEEN, S. DAK., *September 23, 1899.*

HON. W. A. JONES,
Commissioner of Indian Affairs, Washington, D. C.

MY DEAR SIR: Referring to my letter to you under date of August 22, 1899, allow me to say that I am in receipt of an inquiry from Dr. F. H. Files, asking what, if any, action you found it possible to take in relation to "glandered

horses," alleged to be on the Cheyenne Indian Reservation. As yet I have no reply or acknowledgment of my communication; therefore am unable to report to the chairman State board of health. Did you find it possible to take any steps, if so, what was or will be done?

Respectfully,

JAMES H. K.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS.
Washington, September 30,

Hon. J. H. KYLE, *Aberdeen, S. Dak.*

SIR: I have the honor to acknowledge receipt of your letter of the 18th instant, relative to glandered horses alleged to be on the Cheyenne Indian Reservation, about which you made inquiry under date of August 22.

In reply you are advised that as yet the honorable Secretary of the Interior has not received the report of Inspector Tinker, who was detailed to investigate the matter, but is expecting it every day. As soon as said report is received in this Office from the Department I will advise you of the steps to be taken in the matter.

Very respectfully,

A. C. TONNER
Acting Commissioner

CHEYENNE RIVER AGENCY, S. DAK.
September 30.

The SECRETARY OF THE INTERIOR.

SIR: According to instructions contained in your communication of July 1899, I have the honor to submit my report and recommendations relative to horses alleged to be suffering from glanders at the Standing Rock and Cheyenne River reservations, S. Dak., which I trust will prove satisfactory.

I have also forwarded you this day under separate cover a box containing slides to be examined under a microscope which are supposed to show glanderos bacilli.

Very respectfully,

ARTHUR M. TINKER
United States Indian Inspector

CHEYENNE RIVER AGENCY, S. DAK., *September 30.*

The SECRETARY OF THE INTERIOR.

SIR: According to instructions contained in your communication of July 1899, I have the honor to report the result of my investigation of horses at the Standing Rock Reservation and of those branded "R." owned by Esther Rousseau, of the Cheyenne River Reservation, said to be suffering from glanders.

The Rousseau home ranch is located about 45 miles from the Cheyenne Agency, on the Cheyenne River. Most of the horses owned by Mrs. Rousseau (branded "R.") are wild range horses, much wilder than the average range stock. The alleged reason for their being so wild is that they have been rounded up, roped, and thrown by veterinary surgeons so often that many of them and their leaders shot, many killed, and some wounded on open prairie that upon the approach of a person they start at once to the west of the way. They roam in small bands, much smaller than they did so many of them were killed, and are scattered over a very large section of country.

As it would require some time to get them together, Mr. Rousseau, of the agency and requested that ample notice be given him to round them up to enable me to inspect them and report on their condition. It was finally agreed that after I had concluded my investigation and made my report of the affairs of this agency I should go first to the Standing Rock Reservation and ascertain if there were any horses there that were suffering from glanders. To give Mr. Rousseau the desired time to get the horses together was to notify him the day of my departure for Standing Rock, which he did, and he was to commence to round-up their horses at that time and he did until I reached his ranch, so I could examine them.

Upon my arrival at Standing Rock Agency I found William Mackin, veterinarian for the sixth veterinary district, North Dakota, who was there vaccinating cattle for "blackleg." He, being very desirous to know if glanders did exist among the horses of the reservation, administered the mallein test to several animals that showed unmistakable symptoms of glanders and one that appeared to be free from the disease to show the Indians present the effect the mallein test would have on a horse suffering from glanders and one free from the disease.

Doctor Mackin fully understood that I had no authority to employ him and could not promise that the Department would pay him for the tests made, but I told him I would certify on honor that he had rendered the service his bill called for, which I did, and he must depend upon the liberality of the Department to pay his account.

The commandant at Fort Yates, Captain Tutherly, First Cavalry, U. S. Army, also being very much interested, very kindly instructed Charles E. MacDonald, assistant surgeon, U. S. Army, to render what assistance possible. To him I am indebted for the slides which accompany this report; they show the glanderous bacilli when placed under a microscope; they were not made from cultures, but from the mucus obtained from the nostril of each animal given the mallein test.

The bacilli mallei reproduces rapidly on boiled potatoes in an incubator at a temperature of 36° C. and given a most typical growth. Eight cultures were developed, with no failure of any case.

I was informed by several Indians while examining the horses at the Cannon Ball substation that Ormon Wells, a mixed blood, had taken a number of horses that were discharging mucus and blood from their nostrils and had farcy buds and were in the same condition as those that were being examined and had taken them either to the Crow Creek Agency, S. Dak., or to Oklahoma. Some of them died before they could be driven beyond the limits of the reservation.

Below please find a copy of a notice sent to several parties by W. C. Langdon, chief State veterinarian of North Dakota.

This copy was furnished me by William Mackin, veterinarian for the sixth veterinary district, North Dakota, which would indicate that there were horses owned near the Standing Rock Reservation that were suffering from glanders.

OFFICE OF CHIEF STATE VETERINARIAN.

Fargo, N. Dak., September 7, 1899.

MESSRS. H. B. SCHAFFNER, J. CRAMLEY, F. M. SMITH, E. HUGHES, J. MICKLER, KEOGH BROTHERS, J. HERNDON, G. WEAGIE, D. JOZLER, *Broncho, N. Dak.*; G. HENDERSON, *Hazen, N. Dak.*; KRANTZ & LEUTZ, *Hebron, N. Dak.*:

Your horses and colts, running on their various ranges, are reported to this office as having been exposed to glanders. It will therefore be necessary to have them examined by the district State veterinarian of your district, and such other district State veterinarian or veterinarians as he may deem it necessary and expedient to call into consultation.

In order that this examination may be properly conducted, it will be necessary to build suitable chutes and corrals where all such suspected horses and colts may be secured.

You are hereby ordered to proceed at once, either jointly or separately, to erect said chutes and corrals.

You are also ordered, as soon as said chutes and corrals are ready, to round-up your various herds and stocks of horses and colts in these corrals, serving due notice upon the district State veterinarian of the time when such round-up will be completed, that he may be in readiness to make the necessary examination.

Until such examination is made, and as long thereafter as may be deemed requisite and necessary, all such herds and stocks of horses and colts must remain in a state of quarantine on these ranges situated (here given description of ranges—i. e., total boundaries), and until discharged from quarantine by the chief State veterinarian or by the district State veterinarian no animals in these herds or stocks of horses and colts must be sold or disposed of.

W. C. LANGDON.

Chief State Veterinarian.

The two horses owned by William Whitesell (Frank and John) were given the mallein test at the agency (a record of their test see below), also a horse owned by an Indian who resides near the farm school (no record was kept of

the condition of this animal). The Indian horse was badly spotted with appeared to be farcy buds, but they were all healed up; there was no disc from them or from the nose; he showed no marked change of temperature the mallein had been injected; the local swelling on the neck was not large his neck and shoulders were quite sore for twenty-four hours or more.

Doctor Mackin examined his mallein after he had injected some into Indian horse and found that that bottle was old, and after being shaken remain cloudy for a time; he concluded this was a bad bottle, and used no of it; the other mallein he had would remain clear after being shaken.

Doctor Mackin was of the opinion that the Indian horse was suffering chronic farcy.

All the other tests were made at the substation, Cannon Ball district.

By order of the agent, Mr. Wells, the farmer in charge had from 50 horses of all ages rounded up; most of them discharged considerable from the nostrils; some were bleeding from the nose; others showed buds; several had hard lumps under the jaws; a few appeared to be a few of them were selected to apply the mallein test; the result of the made will be found below.

Horse "Frank," owned by William Whitesell, residence about 15 miles the Oak Creek substation and about 25 miles from the agency. The reached the agency between 2 and 3 p. m., September 8; was quite wa time of arrival. Temperature at 4 p. m., September 8, 102; 10 p. m., mallein was injected, 100; September 9, temperature at 4 a. m., 101; at 6 101; at 8 a. m., 102; at 10 a. m., 102; at 12 m., 103; at 2 p. m., 10; 5 p. m., 104; at 7 p. m., 105; at 9 p. m., 104. Local swelling on the where the mallein was injected was 10 inches in diameter; was accom with stiffness and soreness in front for two days.

Temperature at 4 a. m., 101; at 8 a. m., 102; at 6 a. m., 101; at 10 102; at 12 m., 103; at 2 p. m., 103; at 5 p. m., 104; at 7 p. m., 105 9 p. m., 104. Local swelling on the neck where the mallein was injected 10 inches in diameter; was accompanied with stiffness and soreness in for two days.

Horse owned by Walking Thunder. This horse put in corral Septemb Temperature at 3 p. m., September 10, 102; at 2 p. m., September 11, 10 7 a. m., time of injections, 100; at 4 p. m., 103; at 11 a. m., 102; at 6.30 104; at 10 p. m., 103; at 12 night, 102; at 2 p. m., September 12, 102. swelling appeared on neck at 11 a. m., September 11; at 2 p. m. the sw was 9 inches in diameter; swelling hard and painful. The animal moved tenderness and stiffness.

Horse owned by Moccasin Necklace. The horse was put in the corral tember 10. Temperature at 3 p. m., September 10, 102; at 7 a. m., Septe 11, time of injection, 98; at 11 a. m., 101; at 2 p. m., 103; at 4 p. m., at 6.30 p. m., 105; at 10 p. m., 104; at 12 night, 104; at 2 p. m., Septemb 102. Local swelling appeared on neck at 11 a. m., September 11; at 2 the swelling was 8 inches in diameter; it was hard and painful. The a moved with tenderness and stiffness.

Horse owned by Strong Heart. The horse was put in the corral Septemb Temperature at 3 p. m., September 10, 101; at 7 a. m., September 11, th injection, 98; at 11 a. m., 103; at 2 p. m., 104; at 4 p. m., 104; at 10 104; at 6.30 p. m., 104; at 12 night, 103; at 2 p. m., September 12, 102. swelling appeared on neck at 11 a. m., September 11; at 2 p. m. the local s ing was 9 inches in diameter; swelling hard and painful. The animal n with tenderness and stiffness.

Horse owned by Mrs. Pantaloon. The horse was put in the corral Septe 10. Temperature at 3 p. m., September 10, 100; at 7 a. m., September 11, of injection, 100; at 11 a. m., 101; at 2 p. m., 104; at 4 p. m., 104; at p. m., 104; at 10 p. m., 104; at 12 night, September 12, 103; at 2 p. m., Local swelling appeared on neck at 11 a. m., September 11; at 2 p. m. the swelling was 9 inches in diameter; swelling was hard and painful; the a moved with tenderness and stiffness.

Mare owned by Turn Back. The mare was put in the corral Septemb Temperature at 3 p. m., September 10, 102; at 7 a. m., September 11, tin injection, 100; at 11 a. m., 103; at 2 p. m., 104; at 4 p. m., 104; at 6.30 104; at 10 p. m., 104; at 12 night, 103; at 2 p. m., September 12, 102. swelling appeared on neck at 11 a. m., September 11; at 2 p. m. the local s ing was 10 inches in diameter; swelling hard and painful. The animal m

with great tenderness and stiffness. This mare has a chronic case of glanders; she has a colt by her side which also has the glanders.

This animal was brought to this reservation about one year ago from Fort Peck. She must have had the glanders before she came to this reservation. Her condition would indicate that glanders exists at that reservation.

Horse owned by Red Bull. This horse was put into the corral September 10. He showed no symptoms of glanders. The mallein was injected to show the persons present the action of the mallein upon sound horses. Temperature at 3 p. m. September 10, 101½; at 7 a. m. September 11, time of injection, 98; at 11 a. m., 101; at 2 p. m., 101; at 4 p. m., 101; at 6.30 p. m., 100; at 10 p. m., 100; at 12 night, 98; at 2 p. m., September 12, 100. Local swelling appeared on neck at 11 a. m. September 11; at 2 p. m. local swelling was 4 inches in diameter; September 12 at 2 p. m. local swelling on neck had nearly all disappeared.

There were a number of other horses among those that had been rounded up at the Cannon Ball substation that were in about the same condition as those tested with the mallein test, but I thought we had subjects enough to demonstrate that there were a large number of horses on the reservation that had the glanders.

After my return from Standing Rock Agency I went to the Rousseau ranch.

Mr. Rousseau informed me that the fall before the veterinary surgeons began to shoot the horses branded "R" he rounded up 864 horses. Since that time he has never been able to round up 400 horses bearing their brand. All the range horses, saddle horses, and work animals put into the corral for me to inspect were 332 branded "R" or "R-." There were 13 other horses rounded up with them bearing various brands, making a total of 345 horses. This may or may not be all the horses they own or bear their brand.

All the horses I saw were very wild, but they were all fat, in good condition, and seemed to be healthy. None of them were running at the nose; neither did any of them have farcy buttons. All appeared to be sound horses and showed no signs of having the glanders or any other disease.

I saw four animals that had been shot by the Indian police by order of the veterinary surgeon; one was a gray horse, 7 years old; he was shot through the right hip, but managed to get away before he was killed; his wound healed up and he seems to be sound.

A gray mare was shot through the rump, the ball ranged along her side almost the whole length of her body; she escaped and recovered; she has no discharge from the nose or farcy buttons and appears to be free from glanders or any other disease.

One 3-year-old colt was shot under the neck, the ball came out through the hip; the ball cut the base of the tongue in such a manner that the tongue hangs out of its mouth all the time; he managed to get away and recovered; he shows no symptoms of any disease.

A gray gelding was shot twice; once through the left stifle; the ball went in from in front and came out behind; the other ball went through his left hock; he broke away and recovered; it is said he was given the Mallein test by Doctor Treacy, of Fort Meade, and Doctor Dalton, of Chicago, and showed no symptoms of glanders.

Mrs. Paradis had a number of horses killed at the time so many of the Rousseau horses were shot, as did several other parties whose stock ranged with those branded "R." Mr. Paradis rounded up their animals, put them in a corral, and requested me to look them over. I examined them to the best of my ability. There were 106 range animals, 61 work and saddle horses branded with Mrs. Paradis's brand, and 7 horses with other brands; total, 174. The only animal that did not appear to be in perfect health was a colt that was following its dam. It seemed to have distemper.

I do not pretend to know much of anything regarding diseases that horses are heir to. I never saw a horse that I thought had the glanders or farcy until my recent visit to the Standing Rock Reservation, but I am perfectly satisfied that there are a large number of horses that have glanders and farcy at various points on the Standing Rock Reservation and on the northern border of the Cheyenne River Reservation in the vicinity of the Moreau River. I do not think it prevails in the latter section to the alarming extent that it does in the former. Something should be done at once to stop this disease from spreading to parts of the reservations where it does not at this time exist.

As regards the Rousseau horses branded "R and R-" and the horses that graze on the range with them in the Cheyenne River country, I do not consider that I am expert enough to determine whether they have the glanders or not; they all

appear to be healthy, still they may be suffering with glanders, and the only way it can be definitely determined is to employ some competent person with a force of good riders and ropers, round up all the horses in that section, and apply the mallein test. If such a course should be adopted, an expert should be sent from the East who is a fair man with no friends in this section to favor. Such a person would prove satisfactory to all interested parties, and would settle the question as to whether the horses in this section are infected with glanders, as has been alleged.

In view of the existing conditions I would recommend that two competent veterinary surgeons be employed; one to examine the horses at Standing Rock Reservation, the other to examine the horses at the Cheyenne River Reservation; that they have authority to employ two or three expert riders and ropers each to assist them, and that three or four Indian policemen be detailed to accompany each party to assist in herding the animals wanted.

Inclosed please find the papers forwarded me for my guidance. 11 inclosures.

Very respectfully,

ARTHUR M. TINKER,
United States Indian Inspector.

STANDING ROCK AGENCY, N. DAK., April 7, 1899.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

SIR: Acknowledging receipt of office letter of the 25th ultimo as to the existence of glanders on this reservation, I have the honor to invite attention to inclosed report of Aaron C. Wells, additional farmer in the Cannon Ball district, which district adjoins Morton County, N. Dak.; also to petitions of the county commissioners of Morton, Emmons, and Burleigh counties, which have been received at this agency, bearing on the same subject.

I, however, recommend that the State veterinarian of North Dakota be allowed to make such examinations as may be deemed proper of the horses in the Cannon Ball district of this reservation, and that the expense of such examinations be paid by the Government. William Mackin, of Mandan, is the State veterinarian.

Very respectfully, your obedient servant,

GEO. H. BINGENHEIMER,
United States Indian Agent.

CANNON BALL STATION, April 5, 1899.

Maj. G. H. BINGENHEIMER,
United States Indian Agent.

DEAR SIR: Your letters of the 1st and 4th instant received in regard to supposed glandered horses in this district. I had a talk with Frank Black Hawk and I found a horse about where he said there was one, at or near Goodwood Creek, by Thomas Ashley's place, belonging to an Indian by the name of White Man. This horse is as Black Hawk says; it is running at the nose, also running sores from the glands of the upper part of his jaw. This horse, I am sure, has distemper, not glanders. There are about 30 or 50 head afflicted in the same way, caused by overwork and poor condition, and when they get the distemper then they are turned out to rustle best they can, and they are so poor and with the distemper often cause death. With the help of the police I am trying to keep close watch on this disease, not only for the benefit of the Indians, but as much for myself, as I have over 100 head running on this range. We have had this distemper every year since I have been here—some years not so bad as other years. I have examined many of them after death and their nostrils do not show glanders. I am fairly posted on this disease and believe that I could tell if I were to see glanders from distemper, and I have not seen any that I would call glanders so far. I will, however, continue to keep close watch of this disease and will examine more after they are dead.

Yours, respectfully,

A. C. WELLS.

HON. GEORGE H. BINGENHEIMER.

United States Indian Agent Standing Rock Agency, N. Dak.

SIR: We are informed by the State veterinarian that the constant outbreaks of glanders in counties bordering on the reservation originate from Indian horses, over which this official has no control. Will you kindly cooperate with the health officials in this matter and keep the Indian horses on said reservation until they have been examined by a health officer authorized by the Government?

WM. BAXTER,
ALEX. MACDONALD,
JAKOL FISCHER,

County Commissioners Emmons County, N. Dak.

(Indorsement:) Respectfully referred to the honorable the Commissioner of Indian Affairs with the request that the matter be investigated.

H. C. HANSBROUGH.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 20, 1899.

The SECRETARY OF THE INTERIOR.

SIR: Under date of February 12, 1898, this Office submitted a full report to the Department relative to the alleged existence of glanders among horses on the Cheyenne River Reservation, S. Dak., the steps taken up to that time to stamp out the disease, etc., and recommended that the honorable Secretary of Agriculture and the honorable Secretary of War be requested to detail competent persons from their Departments to proceed to the Cheyenne River Agency, S. Dak., and make a rigid and careful examination of all horses stamped with the "R" brand and belonging to one Rousseau, and that the experts make full report in the matter after completion of their duties, accompanied by such recommendations as the case might demand. A copy of said Office letter is respectfully transmitted herewith for your information in the premises. Experts were subsequently detailed by the Agricultural and War Departments for this service, and their original joint report of April 4, 1898, is also transmitted herewith.

I have also the honor to inclose herewith copies of communication from the United States Indian agent at the Standing Rock Agency, N. Dak., dated April 7, 1899; also petitions from the county commissioners of Morton, Emmons, and Burleigh counties, N. Dak., relative to the alleged existence of glanders on the Standing Rock Reservation, and soliciting that an expert make a rigid examination of the horses on said reserve with a view to stamping out the disease.

The agent recommends that "the State veterinarian of North Dakota be allowed to make such examinations as may be deemed proper of the horses in the Cannon Ball district * * * and that the expense of such examination be paid by the Government."

In the said joint report of Doctors Corcoran and Treacy the following appears:

"* * * and as we have no doubt that glanders exists to a great extent amongst the numerous horses mentioned (the "R" brand) on the Cheyenne River Indian Reservation, we would earnestly recommend that later in the season (about the middle or end of June), when the grass is good and mares have foaled and the usual distemper amongst colts has passed away, that all horses within the reservation be thoroughly rounded up, and that we be authorized to employ a few expert riders and ropers, examine all horses so rounded up at different points, and destroy all found affected with glanders.

"This is the only radical means we know of eradicating this disease, and doing justice not only to the residents of the Indian reservation, but the State of South Dakota. This examination might be extended to the Standing Rock Reservation, where glanders has been detected by one of us (Corcoran) from time to time * * *"

In view of the fact that an injunction was secured from the court by said Rousseau when an effort was made by the agent of the Cheyenne River Agency, S. Dak., to carry out the instructions of the Department relative to the killing of all glandered horses of the "R" brand, owned by Rousseau, that orders were

subsequently given the agent to take no further action in the premises until further advices from the Office, as the suit instituted by said Rousseau against the agent has been held up until final action is determined by the Department (as shown by original letter from the Department of Justice, herewith), as claims against the Government will in all probability be presented in case glandered horses are killed. I have to respectfully recommend that the papers in the case be referred to a United States Indian inspector of the Department for full investigation, report, and recommendation in the matter of glandered horses on both the Cheyenne River and Standing Rock reservations, and that when said report, etc., shall have been received, that the Department give this Office such instructions in the premises as may be deemed necessary, with a view to entirely wiping out this disease from the two reservations mentioned.

Very respectfully,

W. A. JONES, *Commissioner.*

BLANKS FOR RECORDING TESTS WITH MALLEIN.

Name of person making the test: Veterinarians Corcoran and Treacy.

Post-office: Cheyenne River Agency.

State: South Dakota.

Name or number of horse: Wild roan mare; age, 7 years.

History of infection: "R" brand, condemned by Elliott.

Symptoms: Clear mucous discharge from left nostril, glands clean.

Date and hour of injection: March 24, 6.30 a. m.

Temperatures day before injection (March 23): 11 a. m., 101.6; 1.30 p. m., 101.4; 3.30 p. m., 102.

Amount mallein used, 1 cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 99.6; 10.30 a. m., 103.6; 12.45 p. m., 100.6; 3 p. m., 101; 6.30 p. m., 102.

Temperatures day of injection (March 25): 7 a. m., 100.6; 10 a. m., 100.2; 12.30 p. m., 102; 2.30 p. m., 100.6.

Time of appearance and disappearance, size and character of local swelling, none.

Mare was very wild, had to be roped and cast at each examination; sometimes very much excited and exhausted when not thrown quick. Colt from this mare, 5 months old, showed all superficial symptoms of acute glanders. (We were informed that this colt had been running with neighboring Indian horses that had been pronounced glandered by Doctors Kern and Treacy, of Fort Meade, and Dalton, of Chicago.) It did not react with mallein test. Was destroyed and pus and part of diseased tissue forwarded to Department at Washington for final examination.

Names of persons making the test: Veterinarians Corcoran and Treacy.

Post-office: Cheyenne River Agency.

State: South Dakota.

Name and number of horse: Black colt; age, five months.

History of infection: Running with R brand mare condemned by Doctors Elliott and Kern.

Symptoms: Submaxillary glands indurated, discharge from both nostrils, septum nasi eaten through.

Date and hour of injection: March 24, 6.30 a. m.

Temperatures day before injection (March 23): 11 a. m., 102.8; 4 p. m., 103.

Amount mallein used: 1 cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 101.6; 11 a. m., 101; 1 p. m., 100.8; 3 p. m., 101; 6.30 p. m., 101.6; 10 p. m., 99.2.

Temperatures day after injection (March 25): 7 a. m., 100.6; 9 a. m., 98.2; 12 m., 101.6; 1.45 p. m., 100.

Time of appearance and disappearance, size, and character of local swelling, none.

Wild colt not branded, following an "R" brand mare (said to be affiliating with the neighboring Indian horses condemned by Doctors Kern and Treacy, of Fort Meade, and Dalton, of Chicago).

This animal we destroyed March 25, and found septum nasi eaten away for about 3 inches, part of cartilage remaining inclosed in bottle and forwarded to Department of Agriculture with gland and lung tissue.

Submaxillary glands were enlarged to about the size of an egg, hard, and painful.

Small portion of right lung near the apex congested, no abscess apparent. Tissue from this portion inclosed.

Names of persons making the test: Veterinarians Corcoran and Treacy.

Post-office: Cheyenne River Agency.

State: South Dakota.

Name and number of horse: Mag; age, 12.

History of infection: Condemned by Doctors Elliot and Karn, of South Dakota.

Symptoms: General condition, poor; glands, clean; no discharge.

Date and hour of injection: March 24, 6.30 a. m.

Temperature day before injection (March 23): 9 a. m., 100.2; 11 a. m., 100.6; 1 p. m., 100; 3 p. m., 100.2.

Amount mallein used: One cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 99; 10.15 a. m., 100.6; 12.30 p. m., 101; 2.30 p. m., 103; 6.30 p. m., 105.6; 10 p. m., 105.

Temperatures day after injection (March 25): 6.45 a. m., 102.8; 9 a. m., 103; 12 m., 101.6; 2 p. m., 101.2.

Time of appearance and disappearance, size, and character of local swelling: Swelling appeared on Mag 6.30 p. m., 24th; painful; five-twelfths to 6 inches diameter; disappearing rapidly 2 p. m., March 25.

Name of persons making the test: Veterinarians Corcoran and Treacy.

Post-office: Cheyenne River Agency.

State: South Dakota.

Name or number of horse: Kate; age, 10 years.

History of infection: Condemned by Elliott and Kern, of South Dakota.

Symptoms: General condition, very poor; glands clean; no discharge from nostrils.

Date and hour of injection: March 24, 6.30 a. m.

Temperatures day before injection (March 23): 9 a. m., 100.2; 11 a. m., 100.6; 1 p. m., 100.4; 3 p. m., 101.

Amount mallein used: One cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 99; 10.15 a. m., 101; 12.30 p. m., 101.2; 2.30 p. m., 101.2; 5 p. m., 102.6; 10 p. m., 103.2.

Temperatures day after injection (March 25): 6.30 a. m., 100.4; 9 a. m., 100.4; 12 m., 99.6; 2 p. m., 99.8.

Time of appearance and disappearance, size and character of local swelling: The swelling in this case was absent; no disturbance, excepting rise of temperature.

Name of person making the test: Doctors Corcoran and Treacy.

Post-office: Cheyenne River Agency.

State: South Dakota.

Name or number of horse: Picket; age, 8.

History of infection: Condemned by Doctors Elliott and Kern, of South Dakota.

Symptoms: General condition, poor; glands, clean; nostrils, free from discharge.

Date and hour of injection: March 24, 6.30 a. m.

Temperatures day before injection (March 23): 9 a. m., 98.8; 11 a. m., 101; 1 p. m., 99.6; 3 p. m., 100.

Amount mallein used, 1 cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 99.2; 10.15 a. m., 103; 12.25 p. m., 102; 2.25 p. m., 102.2; 6.30 p. m., 104.4; 10 p. m., 104.6.

Temperatures day after injection (March 25): 6.30 a. m., 101.6; 9 a. m., 101.2; 12 m., 99.8; 2 p. m., 100.8.

Time of appearance and disappearance, size and character of local swelling: Appeared at 6.30 p. m. March 24; was 4 inches in diameter, painful to touch; disappeared at 2 p. m. 25th.

Name of person making the test: Veterinarians Corcoran and Treacy.

Post-office: Cheyenne River Agency.

State: South Dakota.

Name or number of horse: Bay colt; age, 2 years.

History of infection: Shot by order of Doctor Elliott, but not killed (from information received).

Symptoms: None. Bullet wound in hip suppurating.

Date and hour of injection: March 24, 6.30 a. m.

Temperatures day before injection (March 23): 9 a. m., 100.2; 11.30 a. m., 100.2; 1.30 p. m., 100.6; 3.30 p. m., 102.2.

Amount mallein used: One cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 100.4; 10.30 a. m., 103; 12.45 p. m., 101; 2.45 p. m., 100.8; 6.30 p. m., 102.

Temperatures day after injection (March 25): 7 a. m., 99.8; 10 a. m., 99.8; 2.30 p. m., 100.6.

Time of appearance and disappearance, size and character of local swelling: None; colt had to be roped and cast every time and could not get temperature at 10 p. m., as with the rest.

Name of person making the test: Veterinarians Corcoran and Treacy.

Post-office: Cheyenne River Agency.

State: South Dakota.

Name or number of horse: Two-year-old Curley; age, 2 years.

History of infection: Condemned to be shot with band that was killed; this colt escaped during shooting.

Symptoms: None.

Date and hour of injection: March 24, 6.30 a. m.

Temperatures day before injection (March 23): 9.30 a. m., 98.8; 11.30 a. m., 99.8; 1.30 p. m., 100.4; 3.30 p. m., 101.

Amount mallein used: 1 cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 99.8; 10.30 a. m., 100.2; 12.35 p. m., 100.6; 2.40 p. m., 103.6; 6.30 p. m., 101.2; 10 p. m., 102.

Temperatures day after injection (March 25): 6.30 a. m., 100.6; 9 a. m., 100.2; 12 m., 99.6; 2 p. m., 100.

Time of appearance and disappearance, size and character of local swelling: None; and this colt was unbroken, taken from the range, and had to be cast at each examination excepting last day.

Names of persons making the test: Doctors Corcoran and Treacy.

Post-office: Cheyenne River Indian Agency.

State: South Dakota.

Name or number of horse: Dan; age, 10.

History of infection: Horses condemned by Doctor Elliott, State veterinarian of South Dakota, also by Doctor Kern.

Symptoms: General condition, poor; unthrifty; rendered so by hard work, lack of food.

Date and hour of injection: March 24, 6.30 a. m.

Temperatures day before injection (March 23): 9 a. m., 100.4; 11 a. m., 100.2; 1 p. m., 100.2; 3 p. m., 100.6.

Amount mallein used: One cubic centimeter.

Temperatures day of injection (March 24): 6.30 a. m., 100.6; 10.15 a. m., 100.8; 12.25 p. m., 100.6; 2.25 p. m., 102.8; 6 p. m., 105.4; 10 p. m., 105.

Temperatures day after injection (March 25): 6.30 a. m., 101.6; 9 a. m., 101.2; 12 m., 101.4; 2 p. m., 102.

Time of appearance and disappearance, size, and character of local swelling: 6 p. m., 24th; painful; slight; 3 inches in diameter; horse uneasy. Quit feeding 10 p. m., 24th. Horse feeding again and quiet; swelling same. 6.30 a. m. 25th, horse feeding well, still slight painful.

UNITED STATES SENATE,
COMMITTEE ON PATENTS,
Washington, D. C., December 21, 1905.

The INDIAN DEPARTMENT, Washington, D. C.

MY DEAR SIR: Inclosed find letter from Mr. J. P. Foster, State veterinarian for South Dakota, which explains itself. I have had a great many complaints from parties in our State who have been put to a great deal of trouble and expense by having shipments of horses held up, and would be very grateful to you if you will kindly furnish me the information desired by Mr. Foster, so that this restriction placed upon our horses by the authorities of other States can be removed.

Sincerely, yours,

A. B. KITTREDGE.

HURON, S. DAK., December 14, 1905.

HON. A. B. KITTREDGE, Washington, D. C.

DEAR SENATOR: I saw Mr. W. L. Shunk the other day in Pierre, and in conversation with him regarding the Rousseau matter (he was one of Mrs. Rousseau's attorneys) he told me that a friend of his in Washington, Mr. Walter S. Field, No. 620 Colorado Building, knew some of the particulars of this affair, and was in position to get copies of the papers that I wish. You have probably forgotten the particulars of the matter as I related them to you in your office in Sioux Falls, so will make a brief statement of the case. During the seasons of 1896 and 1897 about 450 head of horses were destroyed on the Cheyenne River Indian Reservation. These horses were the property of Mrs. Esther Rousseau, and it was claimed that they were suffering from glanders. This destruction of Mrs. Rousseau's property was brought about by Peter Couchman, at that time Indian agent for the above-mentioned reservation. Mrs. Rousseau contended that her horses were not glandered, and had the balance of her horses—about 600 head (the whole "R" brand had been condemned)—examined by a number of veterinarians, who were unanimous in the opinion that the horses were not affected with glanders.

Basing her claim upon the verdicts of these veterinarians, Mrs. Rousseau has put in, or attempted to put in, a claim for the 450 head of horses destroyed by the Government through Couchman. This matter was quite thoroughly discussed in the newspapers at the time, and became generally known to the authorities of the surrounding States. Since that time, and I am reliably informed, basing their actions largely on what was stated in the papers at that time, Minnesota, Wisconsin, and Iowa require certification of health for all horses shipped into these States from South Dakota. In the event of the owner or shipper failing to get this certificate of inspection at the point of shipment, for any unavoidable reason, the horses are held in quarantine for a certain length of time. All this is very annoying both for the shipper and the transportation companies. It has occurred to me that if I can get copies of the statements of the veterinarians connected with the Rousseau case that I may be able to have these regulations modified.

I want the statements of Dr. M. J. Treacy, at the time stationed with the cavalry at Fort Meade; Dr. R. B. Corcoran, at the time at Fort Yates, and Dr. R. H. Treacy, a member of the United States Bureau of Animal Industry.

I do not know just where you will find these papers; that is, just how far this claim progressed and at what stage it was dropped, providing that it has been dropped. Mr. Shunk told me that Mr. Field knew about the case and could find the papers there at Washington. Hoping that I am not putting you to too much trouble in this matter, and thanking you for past favors,

I remain, yours, truly,

J. P. FOSTER.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 12, 1906.

HON. A. B. KITTREDGE,

United States Senate, Washington, D. C.

SIR: I have the honor to acknowledge receipt of your letters of December 21, 1905, and January 31, 1906, asking for reports of veterinary surgeons who inspected the Rousseau herd of horses on the Cheyenne River Agency, S. Dak.,

during 1897 and 1898. I will be pleased to furnish you copies of these reports as soon as they can be written, which will be within a few days.

Very respectfully,

C. F. LARRABEE, *Acting Commissioner.*

UNITED STATES SENATE,
COMMITTEE ON PATENTS,
Washington, D. C., January 31, 1906.

THE COMMISSIONER OF INDIAN AFFAIRS.

MY DEAR MR. LEUPP: In March, 1895, the Indian agent on the Cheyenne Agency requested authority from the Department to employ a veterinary surgeon to inspect horses on the Cheyenne Agency suspected of having the glanders. This authority was granted to him, and in July, 1897, a veterinary surgeon by the name of Elliott reported to the agent that the "R" brand were infected with glanders, that he had killed quite a number, and that in his judgment it would be necessary to kill the entire herd, consisting of six or seven hundred horses. Mr. Rousseau, to whom the horses belonged, succeeded in delaying the order, and in the meantime employed a veterinary surgeon in the employ of the Government and stationed at Fort Meade, by the name of Tracy. Later, at the suggestion of the Indian agent, Mr. L. C. Karn, a veterinary surgeon, of Webster, S. Dak., was employed. As a result of all this agitation, the neighboring States of North Dakota, Minnesota, Wisconsin, Iowa, and Nebraska adopted very stringent regulations in regard to horses shipped from South Dakota into these States. It has been impossible to overcome the results, as stated above.

Doctor Foster, of Huron, S. Dak., State veterinary surgeon, writes me that if he had the testimony of the three veterinary surgeons he is confident that he could take up the matter with the adjoining States and remove the restrictions which now exist.

I will be very grateful to you if you will furnish me with this testimony, as I understand it is in the files in your Department.

This is the case which my secretary, Mr. Roberts, personally talked with you about this morning.

Sincerely, yours,

A. B. KITTEDGE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 27, 1906.

HON. A. B. KITTEDGE,
United States Senate, Washington, D. C.

SIR: In further reply to your letter of the 31st ultimo, asking for certain reports of veterinarians, submitted during the years 1897 and 1898, on the inspection of horses on the Cheyenne River Reservation, S. Dak., suspected of having glanders, I have the honor to transmit herewith reports of the veterinarians employed, viz, Corcoran, Treacy, Karn, and Elliott,

Very respectfully,

F. E. LEUPP, *Commissioner.*

HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

OF THE

HOUSE OF REPRESENTATIVES

ON

H. R. 10840,

TO PROVIDE FOR THE INVESTIGATION OF CONTROVERSIES
AFFECTING INTERSTATE COMMERCE, AND
FOR OTHER PURPOSES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1907.

TO PROVIDE FOR THE INVESTIGATION OF CONTROVER- SIES AFFECTING INTERSTATE COMMERCE, AND FOR OTHER PURPOSES. (H. R. 10840.)

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Friday, December 14, 1906.

Committee called to order at 10.40 a. m.

Mr. TOWNSEND. Mr. Chairman, I would like to make a statement with reference to this bill before the regular hearings proceed. At the meeting one week ago to-day it was suggested that we notify men connected with concerns that would be liable to be interested in the provisions of this bill, and to that end I sent out invitations to heads of various labor organizations and various manufacturing organizations throughout the country, as well as to gentlemen who have been interested in these matters, such as Professor Clark, of the Columbian University, and also notified the Department of Commerce and Labor.

The bill, as I have stated before to the committee, is practically the draft of the bill recommended by Charles Francis Adams at the time of the coal strike arbitration in 1902. There are one or two things in the bill that I think ought to be changed; for instance, where it refers to the Secretary of the Interior. I think it should be the Secretary of Commerce and Labor. When that bill was drafted there was no Secretary of Commerce and Labor.

The bill is calculated to bring about an investigation into the troubles mentioned in it, and relies for the benefits which it will bring to the people upon the publicity that such investigation will call forth. It does not seek to force arbitration. I am satisfied in my own mind, after making an investigation, that it is entirely within our powers to pass such a bill as this, but I have consulted attorneys who I think are authorities on the subject, and I believe the powers are similar to those we exercise through the Bureau of Manufactures.

Mr. RICHARDSON. You do not consider that your bill has any limitation at all? When you use the words "conditions of employment," that applies to all affairs, does it not?

Mr. TOWNSEND. It applies to all such affairs as would affect the transportation of the United States mails, the operations, civil or military, of the Government of the United States, or the free and regular movement of commerce among the several States.

Mr. RICHARDSON. Applicable to any of the conditions where wages or hours of labor are involved?

Mr. TOWNSEND. Yes; if the questions involved should result in a disturbance of the conditions that would affect the Federal rights which I mention in the bill.

Mr. RICHARDSON. You use in the bill these words: "Between an employer being an individual, partnership, association, corporation,

or other combination." That, it seems to me, is as broad as the English language can make it.

Mr. TOWNSEND. It is intended to be so anyway. Now, only under such conditions as affect the Federal rights, as I have mentioned here, would the President be justified in making such an investigation.

Mr. MANN. When you say interfering "with the free and regular movement of commerce among the several States," does that relate to the actual movement of commerce or to the production of commerce that might be moved?

Mr. TOWNSEND. I think it is intended to be broad enough to affect both where it is necessary.

Mr. STEVENS. Can you indicate to us the difference between this and the statute of 1898?

Mr. TOWNSEND. The statute of 1898 applies to employees in interstate commerce on railroads and is a sort of compulsory arbitration. It imposes a condition that a commission, which is provided for, shall proceed to hear and award according to the findings; and there are certain conditions under which it has power to control, or seeks to control, relating to the retention in their employment of labor during a strike.

Mr. ESCH. Has that statute ever been invoked?

Mr. TOWNSEND. If I understood correctly from Mr. Garfield this morning, it had not. I had supposed it had. I am not familiar with it. I know that a certain clause was decided in either Kentucky or Tennessee, and it was held that the statute was unconstitutional.

Mr. GARFIELD. I have not known that it had been invoked.

Mr. TOWNSEND. While the same question is pending before two other Federal courts at the present time, the Attorney-General, for instance, does not feel that this matter has been determined. In fact, this was the case to which the President practically referred as one of the cases which required appeal in criminal cases.

Mr. STEVENS. Then it must have been invoked before the court.

Mr. TOWNSEND. That is my understanding.

Mr. RICHARDSON. I do not see, under a fair and reasonable construction of the language of this bill, why it will not apply to what is commonly known as crop sharers, where a farmer and a tenant enter into an agreement along those lines. The question of his interest in the crop, his wages, and all of that, could fairly come under the jurisdiction of this bill.

Mr. TOWNSEND. That is a very extreme case.

Mr. RICHARDSON. But it is a fact.

Mr. MANN. Would it not be well to proceed with the hearing?

Mr. TOWNSEND. I should much prefer that.

I want to say further that I have received communications from a great many of the gentlemen in reply to mine who have stated to me that they wanted to be heard, but that it would be impossible for them to appear before the holidays, and that they would like to have the hearings extended, in the hope that they would not be completed until after the holidays.

Mr. BURKE. Do your letters come from both sides?

Mr. TOWNSEND. Yes.

STATEMENT OF MR. CHARLES P. NEILL, COMMISSIONER OF LABOR.

Mr. TOWNSEND. Mr. Neill, what position do you occupy with reference to the Government at present?

Mr. NEILL. I am the Commissioner of Labor.

Mr. TOWNSEND. How long have you been Commissioner of Labor?

Mr. NEILL. Two years this coming February.

Mr. TOWNSEND. What was your business before your appointment as Commissioner of Labor?

Mr. NEILL. I was professor of political economy in the Catholic University of Washington, and had been there since 1895.

Mr. TOWNSEND. Did you have anything to do with the arbitration of 1902?

Mr. NEILL. The coal strike? Yes; I was the assistant recorder of the commission.

Mr. TOWNSEND. So that you had an opportunity to observe and know what was done in that arbitration?

Mr. NEILL. Yes, sir. I had entire charge of the statistical work of the commission, and, as a matter of fact, a position that corresponded to that of referee in a court; that is, all the questions concerning statistics were thrashed out before me. When the operators filed their statistics, they were then made accessible to representatives of the miners. Then both sides, after the miners had had opportunity to look over them, came before me and made arguments. By that method of elimination practically all of those statistics about which there was any controversy were set aside, and there was submitted to the commission only statistics which both sides had agreed to accept. I was also present at all discussions of the commission, and helped in the preparation of the report.

Mr. TOWNSEND. Have you had anything to do with the administration of the law referred to here this morning as the law of 1898?

Mr. NEILL. No; nothing at all.

Mr. TOWNSEND. Have you looked over House bill 10840?

Mr. NEILL. I have looked over it hurriedly. I have been out of the city for the past two days and have not had a chance to go over it carefully.

I might say in passing, Mr. Townsend, that I do not think the law that you spoke of as being invoked and declared unconstitutional was declared unconstitutional so far as it applied to arbitration. There was a provision in the bill which made it an offense for any common carrier engaged in interstate commerce to refuse employment to or dismiss any man for membership in a labor organization. Recently the Order of Railway Telegraphers endeavored to organize the men on the Louisville and Nashville Railway. It was alleged that the Louisville and Nashville Railway dismissed telegraphers as rapidly as they discovered that they had joined the organization. At the instance of the railway telegraphers, therefore, an indictment was brought against certain officials of the railway for dismissing employees, and it was that clause of the act that was declared unconstitutional by a Federal court in Kentucky. So far as I know the law has not been invoked as to arbitration—at least in that case the law was not invoked as to arbitration.

Mr. RICHARDSON. When was that?

Mr. NEILL. I think within the last two months. There are still several other cases on trial.

Mr. TOWNSEND. Now, from your experience as Commissioner of Labor, and in other matters relating to labor and labor difficulties, I would like to ask you whether in your opinion a bill providing for an investigation into the matters in controversy is, in your judgment, desirable?

Mr. NEILL. I think it is, Mr. Townsend, with certain restrictions.

Mr. TOWNSEND. I wish you would give us your reasons.

Mr. NEILL. I do not think that there should be any investigation, any compulsory investigation, unless the controversy becomes sufficiently large and sufficiently troublesome to the public as to be a grave menace. I do not think it would be advisable to attempt to interfere in the ordinary strike. I do think that when a strike becomes as grave, as, for example, the Pullman strike became some years ago, or the anthracite strike of 1902, or as would have become a strike if it had occurred last year—if there had been a general strike last spring as was threatened, not only in the anthracite, but in other coal industries, then it would have been probable that within thirty days, and certainly within sixty days, every manufacturing plant in the United States would have been tied up, and if the organization had been able to tie up the coal regions of the country for sixty days, it would have paralyzed every line of industry in the United States.

In case of the anthracite controversy, it became so grave that there was indescribable suffering along the entire coast. It had reached a condition in New York where, if it had not been for the careful management of the mayor and the New York officials, there would have been riot at any moment and the coal bins pillaged; there would have been indescribable conditions throughout New York. When those conditions are reached, it is important that there should be some party who shall step in and do something instead of waiting, and then taking action on the spur of the moment without having the proper machinery. I think it important that there should be some machinery already devised and ready to put in operation without a moment's delay. But I say also that I do not think there should be interference until the strike becomes sufficiently grave to warrant the Federal Government in taking action. When that time does come I think there ought to be machinery in existence, or called into existence, in short order.

Mr. GAINES. Who shall determine when it shall be grave enough to bring this machinery into operation?

Mr. NEILL. Like everything else, that would have to be left to somebody's discretion.

Mr. RICHARDSON. But should there not be some restrictions and limitations upon the power of the bill? Do you believe, after reading this bill, that the only limitations and the only restrictions placed upon it shall be that the controversy must be such as to interfere with the regular movement of commerce?

Mr. NEILL. Between the States?

Mr. RICHARDSON. Of course. Is not that the only restriction in the bill?

Mr. NEILL. Yes; I think it is.

Mr. RICHARDSON. Then you think that there ought to be additional restrictions?

Mr. NEILL. I do not know but that perhaps a single adjective such as the word "seriously" might be used. I don't think, myself, that it would be likely that such an important mechanism would be called into action unless there was a very serious demand for it. I am quite sure that unless the matter was very grave and that the public had undoubted interest in it it would be resented by all parties to the controversy.

Mr. RICHARDSON. But suppose you have a law to go ahead and do it, the resentment would not amount to anything, would it?

Mr. NEILL. What I meant to say was that I did not think anyone would be willing to go against the undoubted opposition of the employer and the employees in interest unless there was public support of the strongest kind.

Mr. MANN. Would it be controlled by the popularity of the claims?

Mr. NEILL. I think that if the general public thought it was not serious enough to warrant Federal interference no President would act, and that he would only act when he had sufficient public sentiment behind him to warrant it.

Mr. CUSHMAN. What would be your individual judgment as to the importance of the teamsters' strike in Chicago? Was that important enough or did it affect interstate commerce enough to warrant Federal interference?

Mr. NEILL. I do not think it did.

Mr. MANN. According to your view, the President ought not to act until the controversy had created a great furor in the country?

Mr. NEILL. Not until conditions had reached such a point that a representative element of public opinion would justify such action. I do not think any President ought, and I do not believe any President would, interfere in an ordinary controversy or until the two sides to the controversy showed no reasonable chance of coming to an agreement themselves.

Mr. MANN. In other words, it would be your judgment that the President should only act in those cases that affect the welfare of a large portion of the country, and not simply where it affected a particular locality?

Mr. NEILL. Undoubtedly. I think the matter is too important and I think the principle at stake is too vital to be invoked too frequently.

Mr. MANN. What would you say about the proposition as to whether there should be a special commission appointed in each case or whether there should already be in existence something in the nature of a national board of arbitration to which the President might refer these cases?

Mr. NEILL. I think there should be in existence certain machinery; that is, I think the mechanism of the commission ought to be ready; and I think, personally, that the personnel of the commission ought to be appointed anew for each particular case. I think, in the first place, it ought to be composed of people who have some knowledge of the particulars of the industry in which the strike has occurred; and, in the second place, if such a commission were once appointed, and it were to pass judgment on some point at issue which one side or the other considered vital to its existence, neither side would ever again agree to that same board any questions at issue without vigorous protest. For example, take the anthracite strike commission; no question involving the open shop could ever be submitted to that commission

again, because they passed judgment upon that.' And, furthermore, if the commission made a mistake in the first instance, it would not be inclined to change its verdict. I think the commission would be hampered by that fact if, in the light of insufficient evidence, a verdict was given that later might with propriety have been reversed.

Mr. MANN. Take the question of the open shop. Do you think it ought to be the policy of the National Government to decide in favor of the open shop in one case and in favor of the closed shop in another—to change about just as they happened to be?

Mr. NEILL. I am simply citing that as an instance.

Mr. MANN. But there is a good instance?

Mr. NEILL. Possibly so, but there is this difference between an arbitration commission and a court of law: A court of law has certain definite, well founded, and crystallized principles of law that it follows. But in regard to a labor dispute it represents certain rights, certain demands, in which one body puts faith, claiming that they are rights, legal, constitutional, moral rights. Now, to-day, public sentiment may say: "You have no such rights;" but five or ten years hence public sentiment may come to see that it is an undoubted right. That has been the whole history of democracy.

Mr. CUSHMAN. So far as legal and constitutional rights are concerned, the courts are open to them for their determination, but you think this a question of arbitration to determine a moral right more than a legal or constitutional right.

Mr. NEILL. No; I think that even the questions of constitutional rights or legal rights in labor disputes are still very much unsettled things. There have been decisions in some States that the closed shop is a conspiracy and criminal.

Mr. CUSHMAN. That is true; but can you substitute an arbitration tribunal to take the place of a court of justice to determine those questions?

Mr. NEILL. No; but I say there are certain questions that practically are not settled at all by law, and those questions must go before a body of this kind. In other words, it must pass judgment on questions which are still open to dispute and which the law has not yet formally passed upon.

Mr. TOWNSEND. This is not a question of arbitration anyway.

Mr. NEILL. It comes very close to it. The bill would be without force, without effect, if the opinion of the commission did not amount practically to a coercive verdict. If it simply gave its opinion and no one paid any attention to it, the decision of the commission would be worse than useless.

Mr. RICHARDSON. Would you think, as you have stated just now, that it is a question of such vast importance and magnitude that we ought to leave the law—for instance, the lawmakers ought to leave as little discretion to a man who has to invoke its power as possible? In other words, it ought to be specific, so that the courts would not be allowed to exercise discretion. Make the law plain, and restrict the jurisdiction of the man who has to invoke the law. Do you not believe in that theory?

Mr. NEILL. I don't know whether I do or not. This is a new field, and I think there should not be too much restriction placed there. It will have to be left in the last analysis to somebody's discretion as to

when the power of this organization shall be invoked and when it shall not. If it seems unwise to leave that to anybody's discretion, we had better leave things as they are. I think if it is hedged about with too many restrictions it will become practically useless.

Mr. BURKE. Would you not have two commissions working at the same time that might have the same questions before them, to some extent, to pass upon, and one might hold one way and one the other?

Mr. NEILL. No; I do not think we would have two large strikes at the same time. We have never had in our experience before, and I do not think we will.

Mr. RUSSELL. You stated a while ago that you thought the commission would be useless unless it had coercive power. Upon what would you rest the coercive force?

Mr. NEILL. Public opinion.

Mr. STEVENS. That would lie largely in the justice of the decision.

Mr. NEILL. There is no question but the anthracite coal commission was forced upon the operators against their will, because of the formation of a public sentiment that had coercive force behind it.

Mr. RUSSELL. You didn't mean that the law should contain sufficient machinery to put the decision in effect?

Mr. NEILL. Oh, no.

Mr. ESCH. Unless you have a standing committee, would not a good deal of time be lost in the appointment and selection of separate committees? Are not cases arising where there is great emergency, great need of hasty action?

Mr. NEILL. No; I think no strike could develop to the point of becoming a public menace except by successive steps. For example, we were all very much concerned because of the likelihood of a general coal strike last spring. Those things are always known a considerable time in advance. You can figure out the possible developments and results, and I think that we could be quite prepared, could have all the mechanism ready to launch at a given moment. We would have known weeks in advance what the trend was, and it would be entirely possible before the results became disastrous to have the commission appointed and ready to go to work. I think there should be some prominent official, not a member, connected with the commission who would look after the *modus operandi* and who would be familiar with precedents and traditions.

Mr. CUSHMAN. Let me ask you whether it is your idea that the arbitration machinery be provided to settle a controversy that could be settled by law, or only to reach that part of the controversy which could not be settled in court?

Mr. NEILL. Practically, Mr. Cushman, no industrial controversy can be settled by law. The question is one that you can not get before the courts. For example, there is no question of wages, hours of labor, or condition of life that can be brought before any court. They are questions rather of fair dealing and of justice, which have not yet been brought within the realm of judicial inquiry or decision.

Mr. MANN. You spoke of the teamsters' strike in Chicago as one that would not be of sufficient importance in your judgment to be brought before a commission for settlement. As a matter of fact, both sides to that controversy, at different times, did endeavor to influence the President of the United States, and it is quite certain

that had such a law been in operation he would have been asked to appoint a commission. Would he have been able, would any President be able to resist a request under such conditions? Would it not enter into politics right away? It being a matter of discretion, and in case of trouble to commerce, which might happen anywhere, how could he help himself?

Mr. NEILL. I know a good deal of the inside history of that teamsters' strike, and also the efforts made to interest the Federal Administration, and I do not think that any President, even with this bill in operation, would have done any more than the President did in that particular case.

Mr. MANN. I do not believe that a man was ever elected President who would not have yielded.

Mr. NEILL. I do not believe that any Federal action would have been taken. It never got beyond the limits of Chicago; it never reached a point where it was beyond the control of the city of Chicago or the State of Illinois, so far as I know.

Mr. BURKE. I know that it affected the region beyond Chicago.

Mr. NEILL. It may have undoubtedly inconvenienced purchasers in other States to some extent.

Mr. CUSHMAN. I think they rioted through the city for about a hundred days.

Mr. NEILL. Yes; but this bill would not have enabled the Federal Government to check the rioting. If the case should be investigated the commission would be sitting a couple of months.

Mr. RUSSELL. Do you not think that the tendency of legislation of this sort would be to create a demand for such an amendment to this law, if it were enacted, as to give some coercive effect in law to decisions of the commission? Suppose you have a situation like the Chicago strike—the people become excited and riotous, and the commission is asked to act, pronounces judgment, and neither side yields. Don't you think that the public would demand some amendment to this legislation to put in effect the decision of the commission?

Mr. NEILL. No; I think that public sentiment would be sufficient without anything further. As to the Chicago strike, I think that if the inside facts of it on both sides could have been made public it would have collapsed.

Mr. RUSSELL. That would have put in effect the judgment of the commission; but in case of a desperate controversy, where neither party would yield, that reason would have failed.

Mr. NEILL. If the decision of the commission were one that left the case largely open, so that public sentiment could not crystallize on either side, there would not be anything but to let it go on; but if, as is ordinarily the case, the matter would be considerably one-sided, I think that public sentiment would crystallize materially; and if it could be shown that both sides were in the wrong, or both sides had certain rights, I think public sentiment would then certainly compel a compromise.

Mr. RUSSELL. You do not think that there is in this legislation which would lead ultimately to the enactment of a law empowering the courts to give coercive effect to the judgment of the commission?

Mr. NEILL. If I thought that, I should not feel that such a law would be at all advisable.

Mr. ESCH. Might not the decision of this commission result in legislation? According to one provision of the bill it may recommend such legislation as the facts may seem to require.

Mr. NEILL. It might be. But unless such recommendations were needed, undoubtedly needed, I do not think the public would be willing to have legislation. This is a very delicate field of operations. It is one in which it is very easy to trench on rights which are not yet sufficiently clear to be made the subject of legislative or judicial declaration. I think that there are certain claims being put forward as to rights which have not yet been generally accepted. Within ten years they may be accepted universally.

Now, I think until public sentiment has had time to digest these various claims of rights and reach some decision it would be very unwise to either have legislative or judicial declaration upon what the limits of these rights are. In fact it is a struggle between certain moral and ethical claims which ought not to be passed upon legislatively or judicially until they have been threshed out much further than they have yet been. I think, however, that an organization of this kind would tend to clear the atmosphere very much by giving the public the real inside facts. You have here, say, a controversy in which both sides put forward special pleas, and I might say, to be perfectly frank, that I think the employers' side generally has the advantage in getting a hearing before the public. The labor organizations put forth their pleas and claims through their own papers, their own organs, which do not reach the public. They are read by those who are members of the organization already, by a clientele, so to speak, who subscribe to a certain faith and are only confirmed in what they already believe.

The employers' side of the controversy is usually presented through the periodicals and daily press, so they have the advantage, therefore, of molding and shaping public opinion. And further than that, the acts and the views of the labor organizations have to be done publicly, while the acts of the other side are not done in public, and the public has no way of getting at the facts.

Now, I think that this bill would be in the interest of fairness. It would give the opportunity of forcing both sides to show up the actual things that were being done, and the actual merits of their claims. And I think that would go a long way toward bringing about industrial peace in a way that has not been suggested at all—that is, I think that unless an organization either of employees or employers had a very strong case, and one that they were perfectly willing should be made public, they would not indulge in a prolonged controversy that would invite too much attention from the public.

Mr. ESCH. Would there be any danger in one party putting in part of its case, or not appearing at all?

Mr. NEILL. The commission would have the power to go into the books connected with the affairs of those involved in the controversy, and also have the power to compel the attendance of witnesses, and the production of books and papers.

Mr. RICHARDSON. I think your views on that line are very good, but the trouble in my mind is that you put too much power into the hands of one man, and you do not limit the necessities under which he shall act. I do not like to see that much power put in any one man's hands.

Mr. NEILL. As I understand it, his power would simply be the appointment of the commission; but that, however, would undoubtedly be a very great power; and, as suggested a moment ago, if politics entered into the matter, and if a commission were once appointed with a bias for the purpose of deciding a case, the usefulness of the whole mechanism would end.

Mr. RICHARDSON. Isn't it a fact that according to this bill the interruption of interstate commerce shall, not only in the estimation of the President or in his discretion, actually take place, but if even threatened or menaced he can invoke this commission; and even when there is a menace or threat that something may result in the future?

Mr. TOWNSEND. The bill provides for that.

Mr. NEILL. Now let us cite again a case which is recent. I think that if the coal strike had started last spring, and that a very large per cent of the anthracite and bituminous miners had gone on a strike, that it would have been necessary to put in force this commission immediately.

Mr. RICHARDSON. You are dealing with coal strikes and things of that kind, but this bill is not restricted to that; not at all.

Mr. NEILL. I simply say that in some cases were there a strike threatened the results might come out rapidly, and be so far reaching that it would be necessary to start the commission to work on the certain prospect of danger rather than to wait for the danger to become actual and disastrous.

Mr. RICHARDSON. What I object to, so far as I have investigated, is in restricting the power which is given in this bill.

Mr. NEILL. Of course that is a question of public policy that I am not familiar enough with to answer. I do not feel that I am competent to give the committee a suggestion or advice upon that.

Mr. TOWNSEND. Right in this connection, can you tell whether or not strikes are on the increase?

Mr. NEILL. We are at present making an investigation which will bring the history of strikes and lockouts down to the end of the year 1905, but the work is not yet completed. However, so far as we have gone, we are able to make a rough estimate and I think that in the early part of this century—that is, 1900, 1901, and 1902—they were very largely increased over previous years, though they have not been as numerous in the last few years. But I think that the last five years have averaged a much larger number of strikes than any previous period of five years.

Mr. MANN. Proportioned as to the actual number, or in proportion to the number of people employed?

Mr. NEILL. I don't know; our figures are not sufficiently far along to show that. That would be the only test, undoubtedly. But as a matter of fact I believe that it would be shown that on account of combinations the strikes are to-day larger in numbers. Formerly, for example, we might have a strike in a single plant, while to-day, with the combinations, that strike would extend to a number of other plants that might not formerly have been involved.

Mr. RYAN. Are strikes more numerous during times of prosperity or in bad times?

Mr. NEILL. That it hard to say. I should say that at times of industrial change, either way, they are numerous; that is, when prosperity comes wages do not go up as rapidly as do the profits, and there is a

tendency therefore on the part of labor organizations to strike to secure more rapid increase of wages. At the same time when there is ebbing prosperity, wages are cut promptly, and there is usually a strike against the reduction. So when we are on the up-grade and down-grade they are equally numerous. When the condition is permanently one of prosperity over a considerable time, they are not so likely to be numerous.

The CHAIRMAN. Before you pass from the discussion of the commission, I would like to ask your opinion as to this view: Would it be desirable to appoint—this bill provides for a commission of seven persons for the purpose of having the machinery always ready for early action—would it be desirable to have a portion of that commission permanent, say, three persons, with the power on the part of the President to fill it up for the purpose of examining an immediate case; would there be any advantage in such an arrangement?

Mr. NEILL. I think, Mr. Chairman, as I said a moment ago, that it would not be wise to have any part of the commission permanent, but I do think that the mechanism ought to be permanent, and I think that if some official of the Government—and I say this of course without wishing to direct attention to myself—the Commissioner of Labor should be made the permanent secretary and the keeper of the records, so that the machinery could be all ready the moment the commission was appointed.

The mode of procedure then would be more clear, as the first experience of such an official would be valuable. I do not think that he ought to be a member of the commission, but I think he should be an official of the commission without the power of vote. I am inclined to think, however—for example, my own experience on the anthracite commission has shown me that if a commission of that kind were appointed it could get to work and avoid much delay and some mistakes—that is, that the method of work would be much better if some of the attachés of that commission were attached to a new commission. I think the appointment of the Commissioner of Labor as permanent secretary, and give him permission to use the force of the Bureau in doing investigating for the commission would be a good thing, but I do not think he should be a member of the commission.

Mr. TOWNSEND. Right in that connection, what would you say as to whether there should be some provision in the bill providing that each party to the controversy, or some one thoroughly familiar with the particular questions at issue on each side, should be made members of the commission?

Mr. NEILL. I think that would be an excellent proposition. I think there ought to be a provision in the bill that the President should invite each party to the controversy to select one member of the commission, and if there was a commission of five, let the President appoint five and give each side the option of appointing an additional member, or at least in some form naming the men. I state that for this reason: After all the testimony is taken, if you have five or six men not familiar with the technique of the business, there will undoubtedly come up questions for settlement which the commission does not understand, and there should be somebody on the commission thoroughly familiar with the technicalities and details of the business, both from the employer's side and the side of the organization that is conducting the strike. I think that is very important.

Mr. MANN. That would practically give each side an attorney on the commission.

Mr. NEILL. I think it might be well to provide that the members should not be lawyers, and that they should not be directly interested in the strike. What I mean is, that there ought to be a man who has complete knowledge of all the technical details of the business.

Mr. ADAMSON. It seems to me that it would be a great deal better if they could be lawyers. But I suppose you mean they should not act as advocates in the case?

Mr. NEILL. But the lawyer does not know the technique of the business. Of course I do not make any reflection on the ability or fairness of lawyers, but if it is a railroad strike, for example—say a strike of switchmen—I think there should be a man upon the commission who is himself, or has been, a switchman; a man who has been a railroad man and knows accurately the whole question of switching from the railroad side.

Mr. ADAMSON. Of course, you do not think that a man would necessarily be dishonest or biased because he is a lawyer and understands the subject?

Mr. NEILL. I think each side would have undoubted bias.

Mr. MANN. If a man be appointed with the special purpose of representing either side, universally he considers himself a practical advocate of that side; he is the attorney for that side with the commission.

Mr. ADAMSON. I understand you propose to appoint a man on account of his fitness and for the reason that he knows the things about that side, and not because he is a partisan of that side?

Mr. NEILL. I think, as a matter of fact, that anyone appointed on a commission of that kind would endeavor, so far as he could, to set aside all bias and act in a judicial capacity rather than in the capacity of an advocate; but I admit also that he would undoubtedly have bias, but that would be slight when you consider that there would be five other men in a neutral position. My idea is that there should be opportunity for complete explanations of technical points during the sessions of certain things on which it was necessary to get further information. Of course the getting of the information could not be attended as it was originally, with the right of cross-examination and challenge of statement. But if there could be a man on each side to explain matters of technique, and explain it correctly, the representative of the other side could challenge the explanation. I think that is important, for the absence of that would cause a liability of serious error in the findings of the commission, due to ignorance.

Mr. ADAMSON. A railroad man is selected for the reason that he is skilled in the particular knowledge affecting the railroad, but it is not implied thereby that he is going in there solely to help the interests of the railroad, but to impart to the others his knowledge of railroads?

Mr. MANN. That might be true, but if he is selected by the railroads then he goes in as a special representative of the railroads.

Mr. KENNEDY. Would not they see before selecting him that he would represent the railroads?

Mr. ADAMSON. If they are going to hire a lawyer to advocate their interests in the controversy, that is a different question.

Mr. CUSHMAN. Mr. Neill's idea is that in a controversy of this character there should be two men appointed who have particular knowl-

edge of the subject, one from the standpoint of labor, and the other from the standpoint of the employer. Then if there was any bias on the part of the two individuals, they would offset each other, and that the controversy, in reality, would be decided by the other five men.

Mr. NEILL. Unquestionably. The attorney would be in this embarrassing position, that he would either have to sign the report or dissent from it. And he would be in a very embarrassing position if he wrote a dissenting opinion against the other six members of the commission, he would have to appear as advocate, and his reasoning would show him a special pleader. On the other hand if he signed the report, then he was, himself, brought to agreement with the other six, and the report would have added weight, because a man knowing that side of the case, and naturally supposed to be a man of bias, had signed the report.

The CHAIRMAN. Would you have the respective parties represented by counsel in these investigations?

Mr. NEILL. I think they ought to be given that privilege if they wish.

The CHAIRMAN. Would you think that necessary?

Mr. NEILL. Yes; I think it is. I have known some cases in which it was unwise, as it turned out, and where the case could have been better presented by the parties themselves; but I think they undoubtedly should be given the right to be represented by counsel.

The CHAIRMAN. Would representation by counsel retard or expedite the investigation?

Mr. NEILL. I think it would retard the investigation.

Mr. MANN. I would like to ask if in the coal strike the witnesses were paid by the parties or by the Government.

Mr. NEILL. They were paid by the parties.

Mr. MANN. Would you have that in this law if it should go into effect?

Mr. NEILL. No; the expense should be paid by the Government. There was undoubted hardship on the miners in the case of the anthracite investigation. At Philadelphia they had to bring large numbers of men from Scranton and keep them there an indefinite time, not knowing when they would be called.

Mr. CUSHMAN. Here is a provision in the bill, as follows: "All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation under this act, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the chairman of the commission and the Secretary of the Interior." That is the latter part of section 10.

Mr. ESCH. Strikes, as a rule, have geographic limitations. Would it be your idea that the commissioners should be appointed within a circle of influence, or outside of it?

Mr. NEILL. No; I think it should be left without any respect to geographic limitations; as a matter of fact, it might be advisable in some cases, if the matter has become one of too great heat in a community, to select arbitrators outside of the community.

Mr. ESCH. If you had a permanent commission that might not be possible?

Mr. NEILL. No; I think a permanent commission is most inadvisable; I think it would do more harm than good.

The CHAIRMAN. Should the bill recognize the right of challenge to any member of the commission?

Mr. NEILL. No, I think not. I think that would be an undoubted right that a man should have in one sense, but on the other hand it would almost paralyze the work of the commission. If it took proportionately as long to get a commission as it ordinarily does to get a jury in a very important case, there probably would be nobody left to draw upon.

Mr. RUSSELL. Did I understand you to say, in answer to a question of the chairman, that in your judgment the employment of counsel would retard the investigation?

Mr. NEILL. I think so; but yet I think the right to be represented is more important than rapidity in reaching a decision.

Mr. ADAMSON. I am much concerned to know how any question of public interest, involving the cause of justice, would be retarded by representation by counsel.

Mr. NEILL. Instinctively the lawyer becomes more technical and fights more on technical points than the parties at issue would. I think there would be much argument, and I think undoubtedly the work would be retarded.

Mr. ADAMSON. I suppose that opinion is based upon your idea of the practices common with lawyers in a case. But you do not propose, in this country under our institutions, to set up any investigation that could be expected to receive the respect of anybody if it carried with it the idea that a man should not be represented by counsel and that he should not have witnesses to represent his interests.

Mr. NEILL. As I said a moment ago, I would not have a man deprived of that right; but I was asked if that would facilitate or retard the work, and, based upon experience that I have had, I stated that it would undoubtedly retard the work.

Mr. RICHARDSON. Isn't it a fact that in most of the States of the Union where they appoint railroad commissions that provision is made so that one shall be a lawyer, another a railroad man, and so on? They do not object to lawyers on these commissions.

Mr. NEILL. No. I am speaking of parties to a controversy being represented by lawyers.

Mr. RICHARDSON. I understand. You think it retards the business, and then you take the position further that you seriously question whether there ought to be the right, in this bill, to challenge one of these commissioners. That makes it arbitrary, for if a prejudiced man gets on the commission, and the labor organizations want to show that and that he is committed in his views, you do not think they should have the right of challenge?

Mr. NEILL. No; I think in the formation of the commission that nobody would be appointed by whoever has the power of appointment unless they were men standing before the public as men whose intelligence and fairness would be unquestioned; but at the same time I haven't the least doubt that if there is a right of challenge, practically every one of them would be challenged.

Mr. MANN. I suppose you take the position that if the commission was not fairly appointed their opinion would have no weight?

Mr. NEILL. Unquestionably; therefore the appointing officer would select men of such character that if a protest was lodged it would carry no weight before the public, because the men would have such stand-

ing of intelligence and fairness that the protest would be considered a biased attempt to have them put off and the prejudiced men put on.

Mr. ADAMSON. A commission could only inquire around, form an opinion and give it; that is, so far as the matter of inquiry goes.

Mr. NEILL. That is vital. They might make inquiries, but if they wanted to enforce those inquiries to the point where they could get what they wanted—

Mr. MANN. Supposing there should be a strike on the part of the employees of the sugar trust, the employees of the refineries over in New York, and by reason of that strike a commission was appointed and an investigation undertaken of the books and methods of business in the sugar refineries, do you think that the commission would have constitutional authority to—

Mr. NEILL. I could not discuss that from a constitutional standpoint, because I am not a lawyer.

Mr. MANN. In one case it was held by the Supreme Court that they could not do that.

Mr. NEILL. I do think, as a matter of fairness—and I don't know whether this is constitutional or not—but I do think that where a protective tariff is levied for the explicit and the practically stated purposes of maintaining wages that the Federal Government, in case of a strike in a protected industry, should have the right to go in there and see whether the tax collected from the public is being properly distributed as wages or whether it is almost entirely held out as profit.

Mr. ADAMSON. And if a man is not making enough money, feed him from the public treasury?

Mr. NEILL. That is not the point. It is simply this: When the cry is made that there should be no investigation of this matter, as I understand the matter, the purpose of the protective tariff is to maintain wages in a high standard of living. I do think, if that is the purpose, that when a strike as to wages occurs there should be power further to go in and find out whether the men who have collected the tax are distributing it as intended by the law.

Mr. CUSHMAN. Wouldn't it occur, if any person or organization were engaged in a certain business and making more profits out of it than it should from an ethical standpoint, that that would offer a very flattering invitation to other men to go into that business?

Mr. NEILL. Only as a matter of fairness. I feel strongly on that point.

Mr. MANN. Do you think that the Government ought to be permitted to go in and investigate any corporation, find out what it is making, the amount of profit, the whole business?

Mr. NEILL. I do not say that; but I do say that if the wage they are paying is so low as to bring about a controversy—I wouldn't have this done excepting in cases of strikes that become of moment to the public—but I say when the public is gravely inconvenienced by a strike and by a demand on the part of wage-earners that their wages are not high enough, and when they feel strong enough to carry the fight before the public, then I believe the public has a certain right to go in and say "We want to know whether you are paying all that is proper in this case or whether you are getting the benefits of protection, and at the same time reaping exorbitant profits."

Mr. MANN. If you have to do that in cases that involve a million people, would you refuse it in the case of one?

Mr. NEILL. Unquestionably.

Mr. MANN. Is it numbers that make right?

Mr. NEILL. I wouldn't accept that as a general proposition. But, for example, I think if any individual man chooses to cease speaking to me on the street or does not care for my custom in a store he has that undoubted right, and the Government would say "You are so slightly incommoded that we will not put the machinery in operation." But if the whole community is striving to make my life a burden by doing the same thing I think I would have a right to appeal for protection. I think in all of these matters that the question is largely one of the degree of inconvenience or of sufficient curbing of his rights to warrant the governmental machinery taking notice.

Mr. MANN. You are speaking of governmental machinery without differentiating at all between the local machinery and the national governmental machinery. The question is, How far the National Government should have a right to go into a question that is purely local, excepting as it may affect the shipment of products out of a State?

Mr. NEILL. I should certainly say that the National Government should not take action on as small provocation as would be noticed by the local government. I think the matter ought to be of importance before the National Government should start its machinery in motion.

Mr. BARTLETT. It is a matter of power and right.

Mr. RICHARDSON. As I understand it, under this bill you would inquire into the protection afforded by the tariff; that such inquiry should be made under this bill?

Mr. NEILL. Oh, no.

Mr. RICHARDSON. What was it, then, that you said?

Mr. NEILL. Simply the question of inquiring into the profits when a demand for higher wages precipitates a strike that seriously affects the public.

Mr. RICHARDSON. As to that question, do you not think that in order to find out what the real profits of labor were that you could go a step further and inquire whether the profits of labor are not affected by selling the products of these manufactories of the United States at a smaller price in foreign countries than at home?

Mr. NEILL. Oh, no; I would hardly go so far as to—

Mr. RICHARDSON. But you would not go into that?

Mr. NEILL. No; I should not think that they would have any right to go further than to find out in cases of strikes whether the wage paid was one that was justified by the industry, or whether it was one entirely inadequate.

Mr. ADAMSON. To see whether eleemosynary institutions were properly dividing the swag?

Mr. NEILL. I don't agree to that method of stating it.

Mr. TOWNSEND. Mr. Neill, is it a fact or not, in your knowledge, that the Bureau of Manufactures, or other departments of the Department of Commerce and Labor, are doing practically the same thing as we seek to do here—namely, inquire into the conditions of business?

Mr. NEILL. Well, I do not know enough, Mr. Townsend, about the actual work of the Bureau of Corporations to make the comparison.

Mr. ADAMSON. Seriously now, do you not think that after a few parties, a few interests, had received the opinions or judgments of this commission in their own favor and which were not observed by the other side that they would verify my apprehension and begin to think that the law ought to be amended so as to enforce their findings?

Mr. NEILL. I think that if this bill were to become a law the contrary would be the effect. I think that after one or two investigations and publication of the facts that strikes would not go to the extent that they do at present.

Mr. ADAMSON. Suppose that the opinions were not observed by the ruling parties.

Mr. NEILL. I can not assume that. I believe they would be. I can not assume that they would not be.

Mr. ADAMSON. But you know sometimes public clamor is not right.

Mr. NEILL. We have seen the force of public sentiment in the insurance cases, and in other cases, and I think public sentiment in matters of this kind would be sufficiently strong, as strong as a jury sentence and a court verdict. And further than that I believe that if both sides thought that this power existed and would be undoubtedly enforced, unless they had an absolutely just cause, and one which they had not the slightest objection to being ventilated before the public, I do not believe it would be permitted to get as far as a strike.

Mr. MANN. Do you believe in compulsory arbitration?

Mr. NEILL. Absolutely not.

Mr. MANN. Do you not believe that this would be, in effect, compulsory arbitration through public sentiment?

Mr. NEILL. Perhaps so, but I do not believe we should take a man—you can not compel labor to work unless you put them in jail and bring coercion to bear on them; but, on the other hand, if the decision of the commission was a fair one, it would be simply the decision of public opinion that these men should live rightly and decently.

Mr. MANN. What, in your judgment, has been the effect of compulsory arbitration?

Mr. NEILL. I do not know enough about that. It has been warmly discussed from both sides, and I have read and heard those who claimed that it is a flat failure, and also those who have claimed that it is a success.

Mr. MANN. That is the reason I wanted your opinion.

Mr. NEILL. I try to be rather conservative in my opinions, Mr. Mann.

Mr. ESCH. What do you think the result of administration under this bill would be? Do you think it would result in decreasing the strikes?

Mr. NEILL. No. There is not one strike in a thousand to which this would apply. I think it would result in the reduction of these enormous strikes that become of serious concern to the community, but the average strike would not be affected by it at all.

Mr. ESCH. Wouldn't the effect of a decision of this commission on a great strike be used as a precedent in the adjustment of smaller strikes?

Mr. NEILL. Oh, yes; that is undoubtedly true, after the decision once got into effect. If that same principle came up again and became the issue it would undoubtedly help to hasten the settlement of the

strike, or probably prevent it, because of the fact that it went **again** the decision. The decision would have the effect of supplying strong need.

The CHAIRMAN. On this matter of compulsory arbitration, you say that this method under this law would be, in effect, compulsory arbitration through pressure of public opinion. Now, as a rule, the law is simply crystallized public opinion. Why would you not invoke it then as an expression of public opinion?

Mr. NEILL. While the law is undoubtedly an expression of public opinion, the law often has difficulty in being applied with justice in each individual case in the present state of our views.

In regard to these questions of labor disputes, I think there are many claims that are being put forward as rights of labor organizations, as their undoubted rights, which are denied and resisted as not being their rights at all, and which I believe in the course of time will be just as much accepted as rights as the commonplace rights of to-day. Holding that view, I believe this is a transitional stage when the question of rights is being gradually evolved. I would not like to see a law passed that a court should have the right, or anyone making the application of that law, to take any man and coerce him by law, on either side, to do something he didn't want to do.

If he felt that the decision of the commission was an injustice and that public sentiment would support him, he could very easily refuse to abide by the decision; but if public sentiment did support the commission's award, he would have to bow to it even if he thought it to have been wrong. On the other hand, if the award were wrong, and even contrary to public opinion, he would nevertheless be coerced by the power of the law and fined or sent to jail. I think there would be a great deal of difference in setting in effect a public opinion that I am free to resist and setting into effect the powers of the law which, no matter what I think, are going to lodge me in jail or fine me.

Mr. MANN. I don't understand that the law goes to the extent that you say at all.

The CHAIRMAN. I am not in favor of compulsory arbitration, and I want to have a reason to justify myself in that opinion, but I am not entirely satisfied with your explanation thus far. I have heard it often said that there was no way of enforcing it, and the illustration has often been made of how you could enforce it against the laboring man. These commissions are not, as a rule, against the individual, but against the organization. They have always got the power over one side through the dissolution of that organization. The court has power that far. It does not seem to me that the argument of absence of power to enforce a decree of arbitration is the correct one. There is a means, in my judgment.

Mr. NEILL. Suppose you dissolve the organization. In the first place, it has no corporate, and, I suppose, no legal, existence.

The CHAIRMAN. Oh, yes; it has a legal existence undoubtedly.

Mr. NEILL. It has no corporate existence. If you forbid them to maintain their organization, and they persisted in maintaining it secretly, what punishment could then be inflicted?

The CHAIRMAN. The same punishment as that inflicted in disobeying the decree of a court.

Mr. NEILL. That would have to be fine or imprisonment. My objection to that is this: I think it desirable that labor organizations

should conduct their business as publicly as possible, and I think any coercive measures that would drive them into secret methods, secret organization, would be not only harmful to their interests, but detrimental to the public interests.

The CHAIRMAN. I think that very great good could be accomplished by some such statute as this, but I do not want to be understood by the interrogatories that I have put to you as being in favor of going to the other extreme. I did want, however, to make a suggestion with regard to the objection that is so often heard, that there is nothing for a decree or a judgment to operate upon.

Thereupon, at 12 o'clock noon, the committee adjourned.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Tuesday, January 15, 1907.

The committee met this day at 10.45 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. Mr. Townsend, have you any line of procedure that you would prefer to follow in the hearing this morning?

Mr. TOWNSEND. I have followed the suggestions of the committee and of various members of the committee when we had the meeting heretofore, and invited a great many manufacturing organizations of the country, and also advised Mr. Adams; Professor Clark, of Columbia University; Mr. Lowe, and a number of those people, together with the various labor organizations of the country, that the hearing had been postponed until to-day. Some of them wrote that they would be glad to be here. Others wrote that they wanted to consider the question. Some of them have written out their opinions in regard to the matter and made statements in writing.

I see Mr. Fuller is here. I do not know whether he represents any labor organizations on this question or not, or whether any of the other gentlemen present are to be heard on the bill.

STATEMENT OF MR. H. R. FULLER, LEGISLATIVE REPRESENTATIVE OF THE BROTHERHOODS OF LOCOMOTIVE ENGINEERS, TRAINMEN, AND FIREMEN, AND OF THE ORDER OF RAILWAY CONDUCTORS.

Mr. FULLER. I would say, Mr. Chairman and Mr. Townsend, that I represent the brotherhoods and employees, but we have not taken any proceedings in this matter, and therefore I do not want to have anything to say in regard to it.

Mr. STEVENS. You think your people are covered by the other legislation—the arbitration act, passed some years ago?

Mr. BARTLETT. The Phillips Act?

Mr. FULLER. We have simply not taken any position on this particular bill.

The CHAIRMAN. Have those organizations been advised by you, Mr. Fuller, that this legislation is pending?

Mr. FULLER. Yes, sir; and I understand they have been advised by Mr. Townsend also.

Mr. RICHARDSON. That would indicate, then, that they have no objection to it?

Mr. FULLER. If you will excuse me, I will state that the executive heads of the organizations which I represent are very busily engaged now, as you doubtless all know, with the wage question in the western country, and it is a very hard matter for them to get into another subject at the same time. They have been acquainted with the fact that this bill had been introduced and that hearings will be held upon it.

Mr. MANN. Would they want to submit their side of the wage question to a commission appointed by the President, or do they prefer to make that contest themselves?

Mr. FULLER. Well, Mr. Chairman and Mr. Mann, I would not care to go into any discussion of the matter at all.

Mr. KENNEDY. I suppose, Mr. Fuller, unless the unions you represent act upon the matter pending, you are not authorized to take any position yourself, independent of their instructions, are you?

Mr. FULLER. Well, I am; yes; if I thought proper.

Mr. RICHARDSON. I thought, Mr. Fuller, that you were acting in a representative capacity for your organizations here, and that you advise them what you think. Do you not?

Mr. FULLER. Of course I express my opinions as to legislation; yes.

The CHAIRMAN. Mr. Fuller, I want to ask you: You represent, as I understand it, four labor organizations, national in their character?

Mr. FULLER. Yes, sir.

The CHAIRMAN. Now, have you informed those organizations of this pending legislation, so that they are informed that the matter is pending here?

Mr. FULLER. Yes; I have already stated that I had.

Mr. RICHARDSON. Have you given them an opinion—if I have the right to ask—about this?

Mr. FULLER. I have. If you gentlemen will excuse me, if we are going to take any position on the bill, we will express it; but unless we do that, I do not care to have anything to say.

Mr. TOWNSEND. I would say, Mr. Chairman, that what I know about this matter, as correspondence has revealed it to me, is that I have heard of no open opposition to it. A great many of the manufacturers' associations have written me letters inquiring about the bill and asking for copies of the bill, which I have sent them, and the general question has been all along the line, "Will this bill be liable to interfere with a sort of private corporation matter? For instance, if a strike on a small scale should occur in the establishment of some individual manufacturer or producer somewhere, would the Government be liable to interfere?" I have answered in every instance that it was not the intention of the bill, and that it undoubtedly would never be invoked in cases of that kind.

Mr. RICHARDSON. How do you account for this language, then:

That whenever within any State or States, Territory or Territories of the United States a controversy concerning wages, hours of labor, or conditions of employment shall arise between an employer being an individual, partnership, association, corporation, or other combination, and the employees," etc.?

That is the controlling feature of it.

Mr. TOWNSEND. Where it interferes with some Federal rights, where it assumes the magnitude of interfering with interstate commerce so as to affect disastrously the people. No President or commission would ever interfere otherwise.

Mr. RICHARDSON. I do not know of any business that does not enter into interstate commerce in one way or another.

Mr. MANN. What was the case upon which Mr. Neill recently went off to Texas to adjust relations between employees and employers? Don't you think that was a case of that kind?

Mr. TOWNSEND. No; I do not.

Mr. MANN. Not imputing ignorance at all to anybody, here is a matter which Mr. Townsend does not know as yet. Mr. Neill has left the capital and gone out on that case.

Mr. TOWNSEND. If Mr. Neill has gone to Texas or anywhere else, he has gone there at the invitation of the parties. I do not believe he volunteered to go down there, anything of the kind.

Mr. MANN. I am not criticising him, although I have no doubt if a law like this were passed he would have had a commission appointed for that very case.

Mr. TOWNSEND. The very usefulness of the commission itself would depend upon its being called into being only in extreme cases. If it were to be used on any other occasions, it would fail of the purpose for which it would be created, because it is not compulsory arbitration, but a compulsory investigation, and the result of that investigation would be desirable and important only as the need of it was demanded.

Mr. STEVENS. That is not the difficulty.

Mr. MANN. Every case is important in its own locality.

Mr. STEVENS. The difficulty is that where the machinery is at hand and a controversy arises the fellow who is getting the worst of it is going to invoke this machinery; and you are always liable to have officials, the president in charge or the subordinate officials, who can be worked upon in various ways, and it becomes a matter of opinion in such cases whether it is a matter of sufficient importance to warrant the use of that machinery; and where the machinery exists there is always this liability to take advantage of it and make further trouble.

Mr. RICHARDSON. Now, Mr. Townsend, it does not seem to me that you have made any provision in this bill where a man is appointed as an arbitrator to challenge him as being a man having a preconceived opinion of the subject at issue.

Mr. TOWNSEND. I do not think there ought to be.

The CHAIRMAN. We are getting away, gentlemen, from the discussion of the question of procedure under this hearing and going into the merits of the bill itself.

Mr. MANN. We are to have hearings?

The CHAIRMAN. Yes; we are to have hearings, and I simply suggested to Mr. Townsend that we were ready, and I asked him if he had any method of procedure in his mind that he wanted to follow.

Mr. TOWNSEND. I have some documents here. I expected the witnesses themselves to be here; at least they were notified to be here, and if they had a desire to be here they would have appeared, and no mistake.

The CHAIRMAN. Have you been in communication with the employers' associations? Have they been notified?

Mr. TOWNSEND. Yes. We have one representative here, Mr. Smith, representing the Michigan Manufacturers' Association. Mr. Smith, have you anything to say?

**STATEMENT OF MR. HAL SMITH, OF DETROIT, MICH., COUNSEL
FOR THE MICHIGAN MANUFACTURERS' ASSOCIATION.**

MR. SMITH. Mr. Chairman and gentlemen of the committee, I represent the Michigan Manufacturers' Association. My associates and myself appeared here in connection with the demurrage matter which has just been discussed. We learned of this particular matter before Christmas, and we had some discussion upon it. I do not know that I can better state the attitude of the manufacturers of Michigan than to say that they deprecate in a general way any movement that will permit the Government to inspect the books and property of a private corporation. Whether or not this bill as it now stands would permit that or not, we were unable to agree. We were conscious of the objections just mentioned by the gentleman at my left [Mr. Stevens] when he said that the under dog would perhaps appeal to the Government for the appointment of this commission, but we are, as Mr. Townsend has stated, quite firm in the belief that, so far as private manufacturers are concerned, this action would probably be but very rarely invoked so that their business would be interfered with.

I was present at the conference of the National Manufacturers' Association, where the matter was discussed by their executive officers. I understand that Mr. Townsend has later information as to their attitude. However, at that time they took the general position that if the bill could be limited in its first clauses so that it would be perfectly clear that a private corporation could not be interfered with, there would be no objection. However, we think we would object if we believed that it could be invoked in case a strike occurred in a plant that hindered the shipment of a carload of our goods across the border line of our State to another State, because we think if that situation were brought about the Government could, under terms of this bill, send a commission to look into our books. I think in that case we would object.

MR. MANN. With the knowledge that the Bureau of Corporations in the Department of Commerce and Labor believe that private corporations should be under their control to the extent of making full reports as to their business, with the knowledge that the Committee on the Judiciary has already reported into the House and has now on the House Calendar a bill requiring all corporations doing an interstate-commerce business to make full reports to the Bureau of Corporations, do you think it likely, that being apparent the policy of the executive and of the legislative branches of the Government, that if this power were conferred upon them it would not be exercised?

MR. SMITH. I think it would be exercised if you would consider the provision with reference to interstate commerce to mean that there could be interference with some particular goods started in interstate commerce. If that clause covers that, I think it would be exercised, and that is our feeling. But we are not entirely clear to whether a strike that would prevent the starting of an interstate shipment out of our factories would authorize the interference of a commission. We have talked over that considerably, and I confess that we fear if our plants were shut down and we were engaged in shipping goods out of the State there might be a plausible argument made that that did interfere with interstate commerce, and

might be investigated, and therefore any strikes might be investigated.

Mr. TOWNSEND. What do you manufacture?

Mr. SMITH. We represent chiefly all the manufacturers of stoves, of paper, of cement, of sugar, and most of the furniture manufacturers, and the manufacturers of canned goods, and a large number of automobile manufacturers, besides smaller ones.

Mr. RICHARDSON. You ship goods out of the State, and no matter how private the corporation was, if you had a strike you would be liable to inspection under this bill?

Mr. SMITH. I do not know whether I make myself clear or not. This is where we have not been able to understand that clause. If a strike stopped a train, then you would investigate the books and business of the carrier. If the strike shut down our plant and we were shippers of freight into any other State, I understand this clause would permit the investigation of our business.

Mr. RICHARDSON. How could you go into the merits of the strike unless you examined the books as to the pay of laborers, and so on?

Mr. SMITH. Your answer makes it clear, if you understand it that way, and I think we would object.

Mr. MANN. As a general rule there is no such thing as a manufacturing interstate corporation, unless you refer to the products. If you do not refer to the products in this case, the bill would only refer to transportation companies, and if it only referred to transportation companies, that is an easy matter to say; so that the very fact that the bill does not confine itself to transportation companies, but does embrace everything manufactured in interstate commerce, shows that it would cover all establishments in which wages are paid, whether owned by an individual, a partnership, an association, or a corporation or other combination.

Mr. SMITH. Perhaps we do not thoroughly understand the bill. We would be thoroughly in sympathy with a bill that would permit a commission to investigate a trouble such, for example, as the coal strike of 1902, where the materials were necessary to the handling of interstate traffic.

Mr. MANN. You would be in favor of any bill that permitted the investigation of somebody else?

Mr. SMITH. That is practically true, unless we were a railroad, or were producing something like coal, which is absolutely necessary in manufacturing.

Mr. MANN. But you are not a railroad.

Mr. SMITH. We have some railroads.

Mr. GAINES. Is not your position exactly this, Mr. Smith, that the manufacturing concerns that you represent are in the same position as the labor organizations which Mr. Fuller represents? Their sentiment on this bill has not yet crystallized, so that you are not in a position to say whether you do or do not want this legislation?

Mr. SMITH. I have upward of a hundred letters from members of our organization, and I have stated as nearly as I can their position. If they understood it aright, it would permit interference in any private business where they shipped the product out of the State when the plant was shut down. If that is true, they deprecate the idea of having another Government agency or commission to investigate their books. They are satisfied that the Government already goes far

enough, and they are content to present their report to the Department of Commerce and Labor and the Bureau of Corporations, but they want to settle their labor controversies themselves. I think the labor organizations also want to fight with the employers themselves.

MR. TOWNSEND. That is, on questions between employer and employee?

MR. SMITH. So far as, say, an individual employer and manufacturer of stoves in the city of Detroit is concerned, he does not concern that he is in that sense engaged in interstate commerce. But even with that distinction, in a case like that of coal men, for instance, the situation might become so gross and such a menace to the public as to require that it should be included in the bill. But so far as I know none of our owners would be placed in such a position as the coal people—become a menace to the people. The general idea of the bill otherwise I am in full sympathy with.

MR. FULLER. Mr. Chairman, if you will allow me to say a word without going into the details of the matter, I would like to speak a word in view of the statements made by the gentleman that while we have taken no position upon this we do not want to be understood that the public has not a right to protect itself. If the gentleman's association feel that way, I want to say that they are dissimilar to our position in regard to it. The absence of our testimony or our argument on this bill does not necessarily mean that the public has no voice; it should have no voice or interest in these troubles. On the contrary, we think they have.

MR. BARTLETT. You represent an organization that is peculiarly associated with public utilities. That is true, is it not?

MR. FULLER. We think ourselves, Mr. Chairman, that so long as individuals can settle their difficulties and do it right, and the public does not suffer unduly, it is better to have it done that way. We believe we all agree as to that. I believe that the best government is the government that governs the least, but there may come a time when that can not be done, and the public has an interest in it. We feel the public has a right in those cases to ask Congress to legislate, regardless of what we or our opponents feel.

MR. RICHARDSON. You do not believe in compulsory arbitration?

MR. FULLER. No, sir. Compulsory arbitration is a misnomer. It would mean slavery to the working classes of the country.

MR. MANN. Yet Mr. Fuller stated here that while this, in fact, was not compulsory arbitration, yet it was in practice compulsory arbitration.

MR. STEVENS. I think he stated that it was compulsory publicity.

MR. TOWNSEND. There is no misunderstanding about what the meaning of the bill is. Those bogies brought up about that I do not think are real things.

MR. ADAMSON. If it be true that public sentiment will enforce a correct declaration of opinion or principles, then there can be no doubt of the universal prevalence of the Ten Commandments throughout the earth.

MR. KENNEDY. Do you think we ought to adjourn Congress, and quit?

MR. MANN. They are quite well known.

MR. ADAMSON. Yes; and observed everywhere, according to the doctrine, by everybody.

Mr. MANN. There is only one that I violate.

Mr. ADAMSON. If the opinion or influence of a commission like this would have the effect that is claimed for it, then there is no doubt about the Ten Commandments originating as they did.

Mr. TOWNSEND. If full notice has been given to the parties in this matter and they have not appeared, why not conclude the hearing on the subject?

Mr. RYAN. Why not have Mr. Townsend print the matter he has before him in the hearing?

Mr. ADAMSON. I would just continue the case.

Mr. TOWNSEND. Who is the secretary, Mr. Smith, or the president of your National Manufacturers' Association at New York?

Mr. SMITH. Mr. Cushing—Mr. Marshall Cushing.

Mr. TOWNSEND. I mailed a notice to Mr. Cushing and I got a letter from him stating that they were interested in the matter and would give it consideration, and the National Founders' Association wrote me that they had considered it and had no objection to it. Of course if there is nobody else to be heard here on it I would like to take it up with the committee, if the committee is ready. If the committee wants to take some further steps to get further information on the subject, I would like to put into the record and read the information I have.

Mr. ADAMSON. I think we ought to hear Mr. Townsend if he wants to be heard.

Mr. MANN. If you have some communications there of value we would be glad to hear them.

Mr. ESCH. When the bill was considered the other day Mr. Garfield was here, and he was asked to make some remarks, and he said he was not prepared at that time. I do not know whether he purposes to appear before the committee hereafter or not.

Mr. TOWNSEND. Mr. Neill and Mr. Garfield are ready to appear before the committee. Mr. Neill expressly stated here that if he was wanted and was notified he would be glad to appear. Of course I did not notify him, because I expected there would be some labor organizations and perhaps manufacturers' associations represented here, and I thought they would occupy the time.

Mr. MANN. Have you had any communication with the National Manufacturers' Association?

Mr. TOWNSEND. Yes, sir; Mr. Cushing, the secretary, was notified, and, as I said, I received a letter from him in regard to the bill, and he said the members of the association would be notified, and if they desired to take any action no doubt their representatives would be here.

Mr. ADAMSON. I want to ask a question in connection with the provision which Judge Richardson asked you about, as to cases like West Point, Ga., and Columbus, Ga., that are right on the line in Georgia, close to Alabama. All the farmers that live in Alabama for a distance of 30 or 40 miles raise cotton with the express purpose of selling it in these towns across the line in Georgia. Is that interstate commerce, and would the operations of those farmers and of their hands and tenants be subject to the operation of this act or bill?

Mr. TOWNSEND. If you were to construe it technically undoubtedly it would be. I am simply stating what I believe would be the operation of the bill, and I do not think any of the members would differ

from me very widely if they stopped to consider it carefully. I do not believe this commission would ever be called into existence except to investigate cases like the anthracite coal strike, or if there should be a combination in connection with the production of cotton in the South so that a few men absolutely controlled it and a strike would result in consequence, affecting the general production of cotton in the South, it would certainly be a matter that the Government should investigate; but not in the little instances. If you have a little city down there or some little place producing cotton, it would not materially affect the cotton production of the South.

Mr. ADAMSON. It would come under the purview of that law.

Mr. TOWNSEND. Have you an idea, Mr. Adamson, that the President of the United States, whoever he might be, knowing that his action would be subject to public criticism, would call into existence, except in cases of great emergency, such a commission as is provided for here?

Mr. ADAMSON. I do not know. I am asking you what the law says.

Mr. TOWNSEND. In connection with the statement of Mr. Adams, which has been printed—

The CHAIRMAN. You have the floor now. We have invited you to indicate the methods you propose to adopt in this investigation.

Mr. ADAMSON. If you will permit the suggestion, the United States is full of just such situations as that, and there are a great number of inconsiderable towns, and a great number of them cumulatively are like the sands on the seashore, on the beach, you know.

Mr. TOWNSEND. I see that our time is practically up, and so I will read, in connection with Mr. Adams's printed address on this subject a letter by him—Mr. Charles Francis Adams, who was connected with the anthracite coal strike and who, practically, with the aid of Senator Lodge and some others, drafted this bill.

Mr. MANN. What was his connection with the coal strike?

Mr. TOWNSEND. He assisted in compiling the statistics and the report that was finally made.

Mr. MANN. Had he any official connection with it?

Mr. TOWNSEND. I think Judge Gray invited him to do it.

The CHAIRMAN. He is the statistician of the Interstate Commerce Commission?

Mr. TOWNSEND. No; he is another man. Mr. Lovering can tell you about him.

I am going to read a letter from Prof. John B. Clark, of Columbia University. At the suggestion of Mr. Stevens at the other hearing I wrote to him. Mr. Stevens said that he had written some article on this subject in one of the leading magazines, and I wrote to him. Here is his letter, dated December 10, 1906, after the first notice, when he thought the hearing would be held in a day or two. His letter as follows [reads]:

COLUMBIA UNIVERSITY,
New York, December 10, 1906

HON. CHARLES E. TOWNSEND,

Committee on Interstate and Foreign Commerce.

DEAR SIR: Your kind suggestion that I might possibly assist in the deliberations on the bill for the investigation of controversies, etc., is at hand. It seemed to me that my presence would increase the probability of the passage of this bill, I should think it a duty to waive the engagements and difficulties

in the way of a journey to Washington at just this time and present what little I have to offer in person. As it is I venture to rely on writing. The bill appears to me to be an excellent step in the right direction. In forming an opinion of such a measure, I should always try to ascertain whether the working of it would be in the direction of securing normal rates of pay for laborers of different classes, and not merely whether it would end strikes and insure the resumption of important operations, such as mining, carrying, etc. This latter end is, of course, well worth securing at the cost of very much study and effort; and yet ending controversies by putting wages on a legitimate basis is infinitely better than terminating them otherwise.

The disturbing facts seem to me to be these: There is an exaggerated difference between the pay of some classes of organized laborers and that of other laborers. The maintenance of this difference requires the forcible exclusion of the mass of laborers from the favored fields. Strikes in this favored field depend on "slugging" for success. This violence is, up to a certain point, tolerated by local communities. The reason for this toleration is a fear lest allowing a new force of laborers to be gathered from the unemployed men within a wide area would establish an unduly low rate of pay. What such needy men will consent to take is not an accurate gauge of what labor can produce and of what it should receive. On the other hand, allowing violence enough to be used to exclude new men from the positions is confirming a monopoly of these positions, even though the maintenance of it requires misdemeanors running into crimes.

Completely compulsory arbitration, if it could be maintained, would repress the disorders and might, in a majority of cases, establish just rates of pay; but it would cut loose from the ordinary tests of wages. The courts of arbitration would not have as clear standards of wages before them as they would have under other systems. Mere conciliation confirms the rates already prevailing—in so far as the general range of pay of different classes is concerned—but lessens actual strikes, and thus precludes some violence and some of the injury which interrupted production entails. It allows wages still to be adjusted by strikes and violence, either actual or potential. The fact that the men can stop work and club off rivals, if they will, causes a board of conciliation to decide on about the rate of pay which such a strike would yield.

The compulsory investigation of disputes and the announcement of just terms of settlement would in many cases take the violent strike out of the range of possibilities. In the end the system might be made completely to remove "slugging" from the list of means of adjusting wages, while affording to organized labor a just rate of pay and, in fact, a higher rate of earnings per year than it now secures.

Under this system of compulsory adjudication, without the positive enforcement of awards, laborers might refuse to accept the court's decision and might go on a strike, but if they should then resort to criminal acts they would find no support in public sympathy, and it would be possible, by statute, to enjoin and secure a more rigorous maintenance of order than is now secured even when little violence is used.

There is a difference in principle, which is very fundamental, between allowing wages to be adjusted by strikes in which violence is tolerated and allowing them to be adjusted by strikes from which this is precluded. The latter involves an appeal to a natural rate of pay, while the former makes the rate depend on the fighting strength of a union, and in practice does great injustice to weak unions and to unorganized labor. It is desirable that, in submitting a case to arbitration, men should have the consciousness that after the award is published they will be able to strike if they so desire. They will almost never strike against an award that is within any tolerable distance of the line of justice when by striking they forfeit their tenure of place. It is this tenure which they now treat as property and defend as a man would defend his home. It may be legitimately treated by the public as a quasi property so long as it is held under a system that gives a just rate of pay. It may not be so treated when the pay is maintained by clubbing off rival workmen.

Excuse the length at which I have ventured to speak of the system which makes action by a court compulsory, but leaves the acceptance of the award voluntary. It would make a radical difference in principle between the basis of wages that would result and the present basis. The present bill would be entirely in line with such a system. Though I am not a lawyer, I appreciate the constitutional points in its favor and the general wisdom of taking a step at a time in changing a system, legal or economic. In the end my hope would

be that in the case of all industries having a national scope a Federal system of compulsory, rather than permissive, investigation might be established; that it would preclude strikes by confirming laborers in their tenure of place while investigations are pending, and also after awards are published and accepted, but would declare this tenure forfeited whenever workmen should vacate their places before or during investigations or after the publishing of awards.

In thus treating the claim of a right of tenure, the court would always hold in reserve an appeal to the general market for labor. It would let economic law at bottom determine its awards. It would not introduce an arbitrary basis of wages, but would confirm organized labor in the possession of its superior pay, in so far as this is based on legitimate advantages.

As this statement is necessarily hurried—for I do not wish to delay the receipt of it even by having it copied—I am venturing to send with it an article in the *Political Science Quarterly*, covering more fully some of the points touched on, though it does not treat them all. Both the letter and the article I send for whatever they may be worth. I hope very greatly that the strong beginning of a scientific system of adjustment of wages, which this bill makes, will be secured, and that, in due time, the system may be amplified.

Yours, very truly,

JOHN B. CLARK,

616 West One hundred and thirteenth street, New York.

The CHAIRMAN. He uses in that letter the word you objected to—"compulsive."

Mr. TOWNSEND. No; I used the term the other day. I believe in compulsory investigation. That is what this bill requires. There must be some power for the purpose of determining facts when they come up. Of course I do not wish to argue the merits at this time, but I presented to each member of this committee at that time a copy of Mr. Adams's address, which answers all the objections that have been made to the committee.

Mr. MANN. I mislaid mine. Why not put it in the hearing?

Mr. TOWNSEND. I would be glad, Mr. Chairman, if this document could be put in. It covers 12 or 14 pages.

The CHAIRMAN. What is the date of it?

Mr. TOWNSEND. It was in 1902, immediately after the anthracite coal strike.

The CHAIRMAN. I think it should be published.

Mr. TOWNSEND. Very well. I would like to put this in, together with the testimony of Mr. Neill. I hope to be able to defend the bill, though not exactly as it appears at present; amendments may be put in; but I mean the principle of the bill.

Mr. MANN. Don't you think it would be wise to postpone the consideration of the bill? Everybody wants to accomplish the same purpose you have in mind, but there is no likelihood of the bill being enacted into law by both Houses at this Congress. But your guess, of course, is as good as mine.

Mr. TOWNSEND. I am willing to admit it is as good. I think the chances are pretty good of getting it through. The President is very much in earnest about it and I think there are fair chances of getting it through. This bill was introduced last January.

Mr. MANN. It is a subject of very wide interest in one way and people are not prepared to express an opinion about it at the present time.

Mr. TOWNSEND. There never was a better notice given to the laboring men and to the manufacturers of the country than has been given as to this bill.

Mr. MANN. But they are at sea about it, notwithstanding the notice. Would it not be fairer to lay it aside even in the committee?

Mr. TOWNSEND. Is there any better way to get it before the country than by taking it up before the committee and discussing it? They will not think about it if it sleeps in this committee.

Mr. MANN. Oh, no; they will know that the subject is being agitated, and they will think about it all right.

The CHAIRMAN. I was going to say that if you will print such of your letters as you deem wise we will regard the matter of hearing, at least until some other action is had, as closed now. We will complete the record and have it in print in two or three days.

Mr. ESCH. I was going to ask whether Mr. Townsend thought the discussion would be aided by having Mr. Garfield here. I think he would know better than I about that.

Mr. TOWNSEND. I think it would be well to have Mr. Garfield and Mr. Neill back.

Mr. MANN. There would be no use in having Mr. Neill back unless there is objection from the other side. He has already favored the bill.

Mr. TOWNSEND. Some objections made by members of the committee can be answered with more authority by those gentlemen who have had experience as to matters of this kind, and their statements would have more authority than mine would have.

Mr. PAYSON. At this point, gentlemen, as an interested listener, possibly as a participator later on, may I inquire whether Mr. Neill has appeared before the committee since the recent strike on our road in Texas, giving the details of that?

Mr. TOWNSEND. No.

Mr. PAYSON. That strike, which was closed within the last week, is the best illustration, in my judgment, of the effect of the moral influence of an Administration in the settlement of a strike between a great employer and a large number of employees that has happened in the history of economic strikes anywhere. Mr. Neill personally went to Texas with reference to it.

I speak understandingly with respect to this, because I was in close contact with the chairman of the Interstate Commerce Commission and the Commissioner of Labor, representing the Executive Administration, through Mr. Neill's efforts, until the controversy was finally closed; and the contribution that will come from the inclusion of the correspondence from the chairman of the Interstate Commerce Commission and Mr. Neill and the strikers, on the one side, and from the railroad people on the other, will be the most illuminating literature on this subject that has ever been gathered together. This correspondence will show the committee what the committee ought to know. It furnishes a striking example of the necessity, not the propriety, of just such legislation as is proposed by this bill. I do not go into details here, but I am acquainted with the details.

Mr. TOWNSEND. Suppose we invite Mr. Neill here to-morrow?

The CHAIRMAN. Why not notify Mr. Neill and Mr. Garfield both?

Mr. TOWNSEND. Yes.

The CHAIRMAN. Then let it be the sense of the committee that when we adjourn we will take a recess until to-morrow. If there is no objection, that will be the order, that we will take a recess until half past 10 to-morrow.

Thereupon, at 12 o'clock, noon, a recess was taken until 10.30 o'clock a. m., to-morrow, January 16, 1907.

Mr. Townsend filed the following:

INVESTIGATION AND PUBLICITY AS OPPOSED TO "COMPULSORY ARBITRATION."

[By Charles Francis Adams.]

More than a year ago, during the great steel strike of August, 1901, I prepared a communication setting forth certain Massachusetts experiences during previous similar troubles as being worthy of consideration. They suggested a possible solution, practical in character, of what are known as "labor troubles"—the conflicts between employer and employee which result in strikes and tie-ups. Printed in various papers, this communication caused at the time some discussion. More recently I have been applying the experience then set forth, and the principles advocated to the existing and more serious complications which have since arisen. I have also been in communication with Col. Carroll D. Wright and Mr. Henry Cabot Lodge, one of the Senators from Massachusetts, discussing the facts and theories involved, with a view to what may be considered an outcome based on the systems, political and constitutional, as well as the labor conditions and the social and industrial organizations existing to-day in the United States. With a view to ultimate satisfactory results, the effort has been to recognize facts and to make action conform to them. My purpose to-day is to set forth as briefly as possible the conclusions so far reached.

In the communication referred to I first called attention to the nearest approach to a practical solution of the labor problem in accordance with American conditions, ideals, and traditions which has, so far as I know, yet been devised and put in use. And in making this statement I lay emphasis upon the word "American," for I hold it to be quite useless to take a system, whether purely ideal and theoretical or even in other countries practicable, and apply it generally. The first essential to success in constructing or developing any system of laws is that such system shall be in conformity with the conditions, ideals, and traditions of the community for which it is designed. To ignore them, much more to run counter to them, is to court failure at the outset. As Alexander Hamilton said more than a century ago of the United States Constitution, "A government must be fitted to a nation much as a coat to the individual; and consequently what may be good at Philadelphia may be bad at Paris and ridiculed at Petersburg." In like manner a system of legislation designed to regulate the relations of labor and capital may work well in Australia, but it by no means follows that a similar system would work well in Great Britain or Germany, and a system which might be practical, if not reasonably satisfactory, in Bohemia and Austro-Hungary would almost surely prove quite otherwise in the United States.

This I am well aware is a commonplace, almost, indeed, a platitude. And yet it is necessary to premise it carefully, for just so long as men are what they now are unusual exigencies will, under any system of government, from time to time arise, but when such do arise it is always very noticeable how the air is at once filled with suggestions of remedy, either quite untried or borrowed from other lands. And such are recommended for immediate adoption, wholly regardless of our Constitution, laws, political organization, or the spirit of our industrial development. This is empirical, and in these matters conspiracy is, of all things, to be shunned.

I come now to the experience I have referred to. There is in the State of Massachusetts, and has been for over thirty years, a board of railroad commissioners. In the history of that board there was one important but now quite forgotten incident, from which a highly suggestive lesson may be drawn. It occurred twenty-five years ago. The Massachusetts railroad commission was organized on the theory that in adjusting matters of difference between the community and its railroad corporations the vesting of arbitrary power in such a tribunal was a hindrance to it rather than a help, for the reason that in America force is in the long run less effective in producing results than investigation and subsequent well-considered recommendations based thereon. The appeal was in every case to be made to reason and public opinion, and not to the sheriff or the soldier. Accordingly, in the event of differences between the corporations and their employees, even those resulting in strikes and tie-ups, the commissioners had no executive power. It was their duty, in a gen-

eral way to take official cognizance of the fact when the community was sustaining an injury or an inconvenience and to investigate the causes thereof. Having so investigated, the board was empowered to locate the responsibility for the injury and inconvenience and to make its recommendations accordingly, but those recommendations had merely a moral force. They could be addressed to the parties concerned and to public opinion only. Their effect, greater or less, was measured by the justice and good sense impressed upon them. The commissioners, moreover, disavowed any wish to be clothed with larger powers. They feared the possession of such powers. They were persuaded they could in the end accomplish more satisfactory results without them.

This theory was soon put to a test. At 4 o'clock in the afternoon of the 12th of February, 1877, all the locomotive engineers and firemen in the employ of the Boston and Maine Railroad Company stopped work in a body, abandoning their trains. The move was not altogether unexpected, but the operation of the road was seriously interfered with. The commissioners did not at first intervene, neither party calling upon them. Indeed, both parties were unwilling so to do, for each was apprehensive, apparently, of adverse action. During several days, accordingly, the commissioners preserved an attitude of silent observation. After the lapse of a reasonable period, however, the board concluded that it was plainly time to recognize the fact that the public was suffering serious inconvenience; for then the Boston and Maine Railroad was, as it still is, one of the principal arteries of eastern New England. The president and directors of the company and the employees of the Brotherhood of Locomotive Engineers were accordingly notified that the board proposed to take a hand in the business. This it proceeded to do. An immediate investigation was notified. Both parties appeared—for, without confessing itself in the wrong, neither party could well help so doing—and professed a perfect willingness to submit their cases. No suggestion of a readiness to abide by any decision that might be given thereon was either asked for or given; but the board proceeded to hear witnesses and to elicit the facts. The inquiry was continued through three days; and, on the 21st of February, the report of the board was made public, appearing in full in all the newspapers of that date. In it the commissioners, after carefully and judicially sifting out the essential facts from the evidence submitted, placed the responsibility for the trouble where the weight of evidence showed it belonged; and thereupon proceeded to make such recommendations as in its judgment the exigencies called for. The effect was immediate. An authentic record was before the community, and public opinion, crystallizing, made itself decisively felt.

It is not necessary to enter further into the history and merits—the rights and the wrongs—of that particular struggle. My object is merely to call attention to what was then done, and done successfully, as constituting the nearest practical approach consistent with our American political and social system to what is known as “compulsory arbitration.” It was compulsory inquiry only; and an appeal thereon to the reason and sense of right of all concerned. Reliance was placed in an enlightened sense of right of all concerned, and an informed public opinion.

Here, then, is a system. Under it a public tribunal is provided; that tribunal takes official cognizance of what is notorious; and, when either the peace or the business of the community sustains prejudice or is gravely jeopardized, it becomes its duty to intervene. It intervenes only for the purpose of obtaining the information necessary to enable it to form a clear, judicial opinion. It then sets the facts before the community, and makes its recommendation. It locates responsibility. There it stops; for it can compel obedience on neither side.

Now, let us apply this proposed system to the conditions which, for the last eight months, have existed in the anthracite coal region. Let us assume that provision by law existed under which the Executive, either national or State, was empowered and directed to appoint such a board *pro hac vice*, calling it into existence to meet a sudden emergency. The chances, I submit, are at least nine out of ten that, if such a machinery had existed, and had been judiciously employed either by the governor of Pennsylvania or the President of the United States, a practical solution of the difficulty which for the last eight months has harassed the country would have been reached. The community began to sustain grave prejudice at an early stage of the troubles. The resulting injury became more and more flagrant as the weeks passed by. The continuance of such conditions not only was injurious to private interests, but, as we all know, the public peace itself was involved. Under such circumstances, experience shows that neither party will, for obvious reasons, voluntarily call upon a board or commission to intervene; for such action is tantamount to a confession of

weakness. Both will look at it askance. It must rest, therefore, in the discretion of the Executive to decide whether a case has arisen which calls for public initiative: the public being a third party to the controversy. That it is such, it is impossible to deny. It therefore has rights and interests—a standing in court. It having been decided, in the exercise of a sound discretion, that circumstances call for this third party to act, the Executive gives notice to all concerned that, at the proper time and place, it is proposed to enter upon an investigation. If both parties see fit then to appear and submit evidence as to the facts, that evidence becomes public property. If one party appears, the other absents itself at its peril. Should neither party appear, producing authentic documents and putting in a case, the board would proceed to enlighten itself through all other accessible means. In behalf of the third party to the controversy, of which it is the representative, it should be empowered to summon witnesses, and to enforce the production of documents. Having completed its investigation, it would then make its recommendations definitely, and, if it knows its business, concisely, locating responsibility where the evidence shows it belongs. A practical solution of the trouble, such as would naturally commend itself to the judgment of an unprejudiced tribunal, would be pointed out. A solution of that sort always exists. This report would be transmitted to the appointing power, whether President or governor. By him it would then be communicated to the parties in interest, including the public; and, in due time, submitted to Congress, or the State legislature, always with such enforcing or qualifying recommendations as might commend themselves to executive judgment. The report so made would carry with the public and with the parties concerned exactly that degree of weight its judicial character and reasoning might impart to it—that, and nothing more. It could not be enforced by any governmental process. There would be neither sheriff, nor posse comitatus, nor military force, behind it. But, if well reasoned and impartial, it would bring to bear the moral weight of an enlightened public opinion.

Did such a machinery as this exist, simple and advisory only, it is not unsafe to say that it would prove adequate for the settlement of nine complications out of ten. In the case of the anthracite strike, for instance, if the Commission since appointed by President Roosevelt could have been appointed four months sooner, while the conflict was in the earlier stage of development, its report would have afforded to one or both parties concerned an opportunity to withdraw creditably from a position which afterwards, for at least one of them, became false and consequently perilous. What the country has needed is light—the possession, if not of undisputed facts, at least of an authentic statement of the facts in dispute. Had these been spread upon the record and submitted to public consideration, it could hardly be otherwise than that recommendation firm, judicious, and reasonable, based thereon, would have sufficed to remove from the path the impediment of false pride—that stumbling block in the case of nine strikes out of ten. An opportunity of gracefully receding would have been offered to one or both parties concerned. Should either party have then insisted in the face of light and reason, the responsibility for obstinate insistence would have been upon its head. In the United States public opinion has in such cases a very summary, as well as effective, way of enforcing its own process. An excellent and sufficient example of this was furnished in the sudden change front on the part of one of the parties to the present anthracite complication executed in the face of a rapidly rising popular sentiment. Persistence was to involve too much risk. It would be so in the great mass of these cases. They are preventable. But what is wanted for their prevention is not too much light and guidance.

This generally acknowledged fact to the contrary notwithstanding, it is singular to note, when any controversy arises, how such a method of settlement as that here proposed is at once set aside as being inadequate and unworthy consideration, because behind it there is no constable's club or soldier's bayonet. In fact, however, the word "compulsion" has an unpleasant sound to Americans. In theory only is the thing itself popular. With us the final appeal is always to be to reason; and public opinion enforces the edict of that appeal in every field of legislation this has been again and again illustrated; and yet the appeal to reason, as now here made, is almost as invariably as contemptuously dismissed from consideration on the ground that there is behind it no force to compel obedience.

It is this tendency to compulsion against which, I submit, it is the essential function of the Civic Federation to protest. We should lay emphasis on the fact that our appeal is to reason and not to force. The difficulty with the federal

is not want of power, but want of official standing. It is a volunteer. At no time, for instance, during the last six months could it enter the field as representing the executive of either State or nation; and had it entered the field on its own initiative only it would have been in imminent danger of incurring the contempt not only of both parties to the controversy, but of the public itself. It has, therefore, been compelled to inaction—a purely waiting attitude. This fact in itself discloses a want. A piece of machinery is lacking.

But it is argued that such boards already exist and the results of their efforts have not proved satisfactory. This assumption I deny, and on broad grounds. When such large interests are involved, as, for instance, in the strike in the anthracite coal region, represented by men of capacity on each side, to deal effectively it would be necessary for the community to have the power of availing itself of the services of the very best men and those of the highest character and authority at its command. If it speaks at all, it should speak adequately. If in June it had been the duty as well as within the power of the President or of the governor of Pennsylvania, recognizing that the public interests and convenience were involved and that lasting injuries might be entailed, to take cognizance of the situation in the anthracite region, it should under the system proposed have been the duty of either executive to call upon the very strongest men in the community—those of highest character and most intimately acquainted with every condition involved. No man in the country so called upon could have refused to serve; yet such men will not accept, nor should they be expected to accept, merely salaried positions, permanent in character, on a board of subordinate importance.

The machinery now suggested should, moreover, be reserved and brought into action only in special exigencies. It is not designed nor is it adapted to everyday use. In that field the existing boards are doing good service, and doing it sufficiently well, but for obvious reasons they are not equal to the exceptional occasions. They occupy the positions of municipal courts, but where grave problems of constitutional law present themselves such are not referred to police magistrates for decision, nor would the decision of those magistrates if rendered upon them carry the necessary weight. Exceptional cases can only be dealt with exceptionally. Fortunately they do not arise often. In the field of labor complications, for instance, two only have occurred during the last eighteen months. But they unquestionably will recur periodically in the future, and when they come their presence is unmistakable. It would then be for the executive, State or national, to take cognizance of what is apparent and to set in motion the special machinery designed and held in reserve for that exigency.

It is equally futile to say that the parties concerned, unconsenting thereto, might decline to appear before such a commission. In such a case the commission would simply proceed with its inquiry in the absence of such party or parties. With the power of summoning witnesses and compelling the production of books all necessary information would be accessible to it. But the parties could not refuse to appear. They would not dare to refuse.

Finally, the report of such a tribunal, addressed to its appointing power, would be like the decision of a high court of justice on an abstract point of constitutional law of the first magnitude. Read by every one, if the decision were weak or bore in it signs of prejudice or interest it would, falling dead, fail to influence public opinion. Equally, if handled with a firm and intelligent grasp it would carry conviction. That conviction when so carried is in this country irresistible. It in the end makes opposition confessedly factious.

The trouble with us is that we are always prating of the force of public opinion, but when the exigency arises we evince no confidence whatever in it. Like a parcel of children, we are apt to cry out for the master to come in and enforce instant obedience with the rod. I submit that permanent results with us in America are not reached in that way. Let us in this matter have the courage of our convictions.

I have already expressed my belief that if such a system as I have here suggested could be brought into being through a very simple act of legislation, which, open to no constitutional or other objection, would be in entire accord with our industrial system, our traditions, and the American ideals, it would settle nine matters of controversy which arise out of ten. I now further submit it is highly desirable from every point of view that the tenth case of controversy should not be settled, but should be fought out. In the practical affairs of life, as we all know, it is necessary now and then that the fight should be to a finish. Our own civil war was a case in point. No arbitration ever could have settled that; no appeal to reason would have produced conviction. The issue had to

be fought to the bitter end. That it was so fought we are now all grateful, though at the time the demand was loud and incessant for some compromise—any close to the “useless, the suicidal strife.” This exceptional case, however, by no means brought the principles of arbitration and reasonable adjustment into discredit and consequent disuse. On the contrary, they have grown stronger ever since, securing more and more hold on public opinion. What is necessary, in my judgment, is to organize that public opinion and, when organized and made effective, to rely on it to produce all desirable results in the average case. But it can only be organized by bringing it to bear through the medium of capable men thoroughly informed upon the special matter under discussion and competent to express courageous opinions clearly. The tribunal doing this should then dissolve. It should not continue in existence the target for criticism, partisan discussion, and popular odium. Should a new case arise, another tribunal of a similar character would at the proper time be called into being to deal with it in its turn.

Sound and fruitful legislation can not, moreover, be improved. It is idle to talk in language as empty as it is grandiose of “curbing,” or regulating by any patented method, potentates and power of such large, and yet vague, character as those that labor and capital are now continually bringing into the field. A governmental regulation which shall deal satisfactorily with them must rest upon a broad and well-considered basis of experience. It would be the natural outcome of a series of reports of tribunals such as that suggested. It is equally futile to suppose that this labor contest in which we have been engaged and of which we have so long experienced the inconvenient results is going to be settled in a day, or an hour, or next year, or within the next ten years. It will continue with us during the remainder of our lives, and with our children after us; but we will slowly and tentatively approximate to satisfactory results. Under these circumstances, if a solution, represented by a proper legislative and administrative machinery, is ever to be evolved, it must be evolved from a series of wearisome investigations, and reports thereon, no less judicial and well considered than that body of great opinions from which the present Constitution of the United States has been slowly built up and rounded out.

In the case of the National Executive some question has been raised as to its functions and powers, in view of our constitutional system and the reserved rights of the States. I can not, however, see that this enters into the present question or what is now proposed. It is certainly the duty of the President to inform himself upon all questions relating to the carriage of the mails and to the movement of commerce, whether foreign or interstate. Questions of revenue are involved; questions affecting the transportation of material, men, and supplies may be involved. To inform himself he should be empowered to appoint agencies competent to investigate and report thereon. It is not now proposed to clothe him with any power in these exigencies, except that of receiving a report, forwarding it to the parties involved, together with his own recommendations, and then submitting the same to Congress. To give the President power to intervene by any Executive act of a compulsory character would, in my opinion, jeopardize at the beginning every desirable ultimate result of the experiment proposed. Congressional action is always in reserve, but even Congressional action ought to be intelligent, and to be intelligent it should be well considered—based on a considerable body of facts judicially ascertained. The judicial ascertainment of facts and the study of principles involved therein is therefore what the occasion immediately demands. Sound remedial legislation will in due time result therefrom. But at present the chances are enormous that crude and precipitate effort at a compulsory betterment of existing conditions would only make what is already quite sufficiently bad distinctly worse.

As the result of my conversation with Colonel Wright and Mr. Lodge, I have undertaken to draw up a simple act in few sections, based upon the foregoing principles and looking to the results indicated. It could be passed, *mutatis mutandis*, by any State legislature or by Congress. It would contravene no constitutional provision or private right, but simply secure to the community—the third party involved in every controversy of this sort of any magnitude—the right to get at the facts in dispute, and after so doing to bring to bear an intelligent pressure of its own, looking to a reasonable solution of troubles sure hereafter to arise. Such an act has accordingly been prepared and is subjoined hereto.

BOSTON, MASS., December 17, 1902.

CHARLES F. ADAMS, Esq.,
23 Court st., Boston, Mass.

MY DEAR MR. ADAMS: I have considered the questions suggested by your paper upon the investigation by the President of labor troubles and I beg to submit a draft of an act which I believe embodies your views on the subject.

Yours, truly,

JOHN G. PALFREY.

AN ACT To provide for the investigation of controversies affecting interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. That whenever within any State or States, Territory or Territories of the United States a controversy concerning wages, hours of labor, or conditions of employment shall arise between an employer being an individual, partnership, association, corporation, or other combination, and the employees or association or combination of employees of such employer, by reason of which controversy the transportation of the United States mails, the operations, civil or military, of the Government of the United States, or the free and regular movement of commerce among the several States and with foreign nations, is in the judgment of the President interrupted or directly affected, or threatened with being so interrupted or directly affected, the President shall in his discretion inquire into the same and investigate the causes thereof.

SEC. 2. To this end the President may appoint a special commission, not exceeding seven in number, of persons in his judgment specially qualified to conduct such an investigation.

SEC. 3. Such commission shall organize with all convenient despatch, and upon giving reasonable notice to the parties to the controversy, either at the seat of disturbance or elsewhere as it may deem most expedient, shall proceed to investigate the causes of such controversy and the remedy therefor.

SEC. 4. The parties to the controversy shall be present in person or by counsel throughout the continuation of the investigation and shall be entitled to a hearing thereon subject always to such rules of procedure as the commission may adopt, but nothing in this section contained shall be construed as entitling said parties to be present during the proceedings of the commission prior to or after the completion of their investigation.

SEC. 5. For the purpose of this act the commission or any one commissioner shall have power to administer oaths and affirmations, to sign subpoenas, to require the testimony of witnesses either by attendance in person or by deposition, and to require the production of such books, papers, contracts, agreements, and documents as may be deemed material to a just determination of the matters under investigation; and to this end the commission may invoke the aid of the courts of the United States to compel witnesses to attend and testify and to produce such books, papers, contracts, agreements, and documents, and for the purposes of this section it shall be vested with the same powers to the same extent and under the same conditions and penalties as are vested in the Interstate Commerce Commission by the act to regulate commerce, approved February 4th, 1887, and the acts amendatory and in addition thereto, and it shall be the duty of the said courts of the United States to render said commissioner the same aid to the same extent and under the same conditions as is provided by said acts in aid of said Interstate Commerce Commission, and witnesses examined as aforesaid shall be subject to the same duties and entitled to the same immunities as is provided in said acts.

SEC. 6. For the purposes of this act the Commission may, whenever it deems it expedient, enter and inspect any public institution, factory, workshop, or mine, and may employ one or more competent experts to examine accounts, books, or official reports, or to examine and report on any matter material to the investigation in which such examination and report may be deemed of substantial assistance.

SEC. 7. Having made such investigation and elicited such information of all the facts connected with the controversy into which they were appointed to inquire, the Commission shall formulate its report thereon, setting forth the causes of the same, locating, so far as may be, the responsibility therefor, and making such specific recommendations as shall in its judgment put an end to such con-

troversy or disturbance and prevent a recurrence thereof, suggesting any legislation which the case may seem to require.

SEC. 8. The report of such Commission shall forthwith be transmitted to the President and by him communicated, together with such portions of the evidence elicited and any comments of further recommendation he may see fit to make, to the principal parties responsible for the controversy or involved therein; and the papers shall be duly transmitted to Congress for its information and action.

SEC. 9. The Commission may from time to time make or amend such general rules or orders as may be deemed appropriate for the order and regulation of its investigations and proceedings, including forms of notices and the service thereof, which shall conform as nearly as may be to those in use in the courts of the United States.

SEC. 10. The President is authorized and empowered to fix a reasonable compensation to be paid to the members of the Commission from the Treasury at such times and in such manner as he shall direct. The Commission shall have authority to employ and fix the compensation of such employees as it may find necessary to the proper performance of his duties, subject to the approval of the Secretary of the Interior.

The Commission shall be furnished by the Secretary of the Interior with suitable offices and all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners or by their employees under their orders, in making any investigation under this act, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission and the Secretary of the Interior.

SEC. 11. No Commission appointed under this act shall continue for a period of over three months from the date of the appointment thereof, unless at any time before the expiration of such period the President shall otherwise order.

BOSTON, MASS., *December 10, 1906.*

MY DEAR SIR: I have to acknowledge the receipt of your favor of the 7th instant, inclosing a copy of House bill No. 10840.

You suggest my appearance before your committee on Friday next in connection with this measure.

Other engagements will make it impracticable for me to be in Washington at the date named. Neither, should I appear before the committee, could I do more than take up its time, which I do not doubt is otherwise fully and more advantageously occupied. Everything I have had to say in this matter I have put forward as clearly as I know how in a paper submitted two or three years ago to the Civic Federation. Copies of that paper I now inclose, one for each member of your committee.

Did I appear before it, I could only repeat what I have herein suggested.

I will merely add that the measure suggested failed to commend itself to either Mr. Gompers or Mr. Mitchell of the labor organization. Their objection to it was that they thought it tended in the ultimate direction of what they called "compulsory arbitration;" and, in any event, it was calculated to reduce the present industrial chaos into a certain degree of order, a result which they did not regard with favor. The upshot of the discussion which took place at the time the bill was presented left a very unfavorable impression on my mind. I was distinctly led to believe that the labor organizations, for purposes of their own, were very unwilling to see any measure introduced which was likely in any way to discourage strikes or complications.

I remain, etc.,

CHARLES F. ADAMS.

HON. CHARLES E. TOWNSEND, M. C.,
Washington, D. C.

P. S.—I have mailed the copies of the document referred to, one for each member of the committee, to your address under a separate cover.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,

Wednesday, January 16, 1907.

The committee met this day at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. Are your people ready, Mr. Townsend?

MR. TOWNSEND. I invited Mr. Garfield and Mr. Neill to be here this morning, at the suggestion of the committee, and they are both here. I understand that it is desired that some questions be asked of Mr. Neill, but if Mr. Garfield wishes to make his statement first we will be glad to hear him.

MR. GARFIELD, have you looked over House bill 10840—the bill which provides for the investigation of controversies affecting interstate commerce, and for other purposes?

STATEMENT OF MR. JAMES R. GARFIELD, COMMISSIONER OF CORPORATIONS, DEPARTMENT OF COMMERCE AND LABOR.

MR. GARFIELD. Yes, sir; I have looked it over.

MR. TOWNSEND. What have you to say, Mr. Garfield, with reference to this bill, as to the necessity for such a measure as this? I would prefer that you take your own way of stating anything you have to say with reference to the bill.

MR. GARFIELD. Telling you generally about it, the chief value, to my mind, of this measure or any measure similar to it is that it would give to the public, through a duly accredited set of officials, the full facts about any special controversy of that character. I do not find, from the study I have made in a general way of these measures, that an attempt to compel arbitration is valuable, and that is not required by this measure, as I understand it. But whenever the public at large has all the facts bearing on any special conditions, such as are contemplated by that measure to be considered by the proposed commission, with those facts in view a proper public sentiment and opinion is very readily formed and crystallized, and if the case is urgent enough it may result in legislative action.

On the other hand the mere fact of publicity—all the people on both sides being required to state exactly what their contentions and claims may be, and what the conditions are—would have the effect of clearing the air enormously, and of making it possible for the parties themselves to get a clear understanding of what the conditions are; and from that clear understanding very often, I believe, a settlement would be effected without any further action whatever. And if a commission of that kind should conduct its inquiries quickly and intelligently, free from unnecessary detail and technicality, I believe that in a great many cases they would get the parties face to face in such a fashion as to make possible the settlement of their differences.

Of course, that would not by any means always result, but from the work of the Bureau of Corporations I have found just this, that as I have gotten men in my office or in their offices and learned from them the true conditions regarding their own business, and talked with them regarding the general conditions of business, that knowledge, together with what I have learned from other sources, has wiped out of existence a great many misunderstandings.

You know that men very naturally are looking primarily to their own side of a question, and the question of self-interest is usually

uppermost, and their own point of view is the view that dominates their thought very much, and they have not had time or opportunity to look into it from the other man's point of view; but if the machinery is afforded of getting at the other man's point of view and presenting it dispassionately, without question it is a very effective means of settling disputes of that character.

I am aware, Mr. Chairman, that this is a very general statement, and I am simply giving it as a result of the experience I have picked up in the last few years, and of my knowledge of machinery of this kind which may be provided by the Federal Government.

Mr. TOWNSEND. What do you say, Mr. Garfield, as to whether in your opinion a provision such as is carried in this bill with reference to the President's power to appoint a commission would be used on every occasion, whenever there was a disturbance between an employer and employees, whether it was large or small?

Mr. GARFIELD. I think the mere fact that such a commission may be appointed would very often have the influence of impelling men to settle their differences before there would be occasion for such an investigation as that which would be made by the commission. On the other hand, it might in certain cases stimulate requests for investigation, and that is where the discretion of the Executive would have to be exercised very wisely, to see to it that commissions were not appointed for petty disturbances, and that trivial matters were not brought before the commission, or rather that the commission should not be organized for the purpose of considering merely trivial differences, but that it would be an efficient engine to use in cases of disturbances of magnitude.

The CHAIRMAN. Mr. Garfield, you spoke with approval of voluntary arbitration. Do you think that this bill provides for voluntary arbitration?

Mr. GARFIELD. I think, as I understand it, that the bill does not provide for arbitration in the sense of the commission reaching any conclusion that would be binding upon the parties. It provides for the compulsory attendance of witnesses, without doubt, and it provides for the compulsory giving of evidence regarding the facts. It is not an arbitration measure in the sense that the commission reaches a conclusion which could in any sense be binding upon the parties.

The CHAIRMAN. What would be the objection, in your mind, to such legislation as would enforce the decrees or findings of a board of arbitration?

Mr. GARFIELD. I am somewhat at a loss to answer that question, Mr. Chairman, for this reason: The character of questions to be submitted, if I recall the wording of this bill, would be very broad. There would be no limitation as to the questions to be submitted, and there might be very serious difficulty. If the commission attempted to enforce orders regarding certain kinds of question that might arise, it might involve the commission in the exercise of powers which really could not be enforced; and with my present knowledge regarding the scope or the character of questions to be submitted I should hesitate to express a favorable view to giving a commission so organized the power to enforce its findings.

The CHAIRMAN. What would be the difficulty, in your mind, as

presented to your mind, of enforcing the findings of a board of arbitration?

Mr. GARFIELD. Some of the questions, I can conceive, might more properly, very properly, be subject to State laws. For example, the question of hours of labor, questions of wages, questions pertaining to sanitary conditions of the shops and conditions of safety appliances, and matters of that kind, which are not definitely under interstate commerce, but which might be connected with it from the manufacturing side. The commission might, as to those questions, reach a very different conclusion from that reached by the legislature of a State in which, for example, the manufacturing corporation is operating, and if it is attempted to enforce a finding contrary to the State laws I can conceive that there would be very serious difficulty and conflict as between two jurisdictions.

Mr. ESCH. In your opinion, would it be better to appoint a permanent commission or to have commissions appointed to meet every exigency as it arises?

Mr. GARFIELD. I think special commissions would be better than a permanent one. We have under the statute a provision for a board of arbitration which, as I understand it, has never been effectively used. No; I thought it had never been used, but I am advised that there were two cases in which it was used, although I do not know what they are.

Mr. ADAMSON. You think publicity would clear a few or maybe all situations, both Federal and State, and you think this bill would be valuable because of the information which would be elicited?

Mr. GARFIELD. Yes; that is the principal effect.

Mr. RICHARDSON. As I understand you, Mr. Garfield, the commission would create public opinion by which the parties would be induced to abide by the award of the commission?

Mr. GARFIELD. It would afford facts upon which the public opinion might be based.

Mr. ADAMSON. It might establish a change of regulations in the future?

Mr. GARFIELD. Yes, sir.

Mr. RICHARDSON. You say that the commission would create a public opinion to such an extent that the parties would abide by the award?

Mr. GARFIELD. Yes. The parties themselves might agree that they would abide by the result of the commission.

Mr. BURKE. Is it your opinion, Mr. Garfield, that this law should be applied in a case where the parties to it were simply manufacturing corporations on the one side and employees on the other, regardless of any interstate institutions or considerations?

Mr. GARFIELD. I think it would not be possible to compel the attendance of witnesses unless the action of the commission was based upon the proposition that they were engaged in interstate commerce.

Mr. ADAMSON. Is there any manufacturing enterprise anywhere in this country that is not engaged in interstate commerce?

Mr. GARFIELD. Very few indeed.

Mr. STEVENS. You have had much experience in your Bureau concerning the investigation of the affairs of corporations. Now, under section 6 of this bill, where authority is given to enter and inspect institutions and workshops and mines, and examine the accounts—

Mr. TOWNSEND. That is stricken out.

Mr. STEVENS. Then in that case I will not interrogate you further on that line.

Mr. MANN. Is it not your idea, Mr. Garfield, that the effect of this bill would be to enforce public opinion when the board of arbitration had reported?

Mr. GARFIELD. I believe that would be one of the chief effects or results of the measure, Mr. Mann.

Mr. MANN. That is, that the lash or whip of public opinion would force the side which still might believe itself to be right to yield, because of the effect upon the public?

Mr. GARFIELD. Yes.

Mr. MANN. Is it not quite probable that public opinion may have been formed before the commission is appointed, and that in times of political excitement or campaigns a board of arbitration might be appointed to yield to public opinion?

Mr. GARFIELD. It is quite possible.

Mr. MANN. Is it likely, in a time of some excitement—in a campaign, for instance, and an excitement over a strike—that a President who was a candidate for reelection would dare appoint—an ordinary President; I am not referring to our present President, for he dare do anything—would dare appoint a commission, regardless of public opinion, to make a report without considering what public opinion already was, and that it might defeat him for reelection?

Mr. GARFIELD. Of course it is impossible to give a direct answer to that; but, I think, Mr. Mann, just this, that any great power which may be used beneficially is likewise liable to misuse, and I am never afraid of a great power being granted because of the possibility of its misuse.

Mr. MANN. We see so often cases of misuse of power by the administrative branch that we are afraid of it.

Mr. ADAMSON. You have seen little boys, street gamins, get ahead of a parade, but while they were physically ahead of the parade, they were not really leading the parade, but following it?

Mr. GARFIELD. I can see that what Mr. Mann suggests might happen, and I remember that when the Bureau of Corporations was organized much the same argument was expressed against that.

Mr. MANN. We created the Bureau of Corporations here in this committee, and there was no such argument made, that I heard, against it.

Mr. GARFIELD. It has certainly been urged in public since that.

Mr. MANN. Since that?

Mr. GARFIELD. Yes; and at the time of its organization, too.

Mr. MANN. You have recommended that all these corporations doing interstate-commerce business shall be required to take out a license from the General Government, as I understand it?

Mr. GARFIELD. Yes.

Mr. MANN. Is not this right along the same line?

Mr. GARFIELD. Very much the same. It is affording still greater knowledge on the part of the Federal Government upon which, if Congress saw fit to authorize the license system, such a license system could be more intelligently enforced and operated.

Mr. RICHARDSON. Don't you think that this language in this bill—

A controversy concerning wages, hours of labor, or conditions of employment shall arise between an employer being an individual—

is very broad? Don't you think so?

Mr. GARFIELD. Without doubt it is.

Mr. RICHARDSON. Don't you believe that language ought to go out of this bill? Doesn't it give too much authority entirely?

Mr. GARFIELD. I think this is perfectly true, that the interstate-commerce clause deals with individuals quite as much as with corporations, and it is still a question for Congress to determine how far and how rapidly they desire to extend the affirmative power of the Federal Government over interstate commerce.

Mr. RICHARDSON. The provisions of this bill would affect all interstate commerce?

Mr. GARFIELD. Yes.

Mr. RICHARDSON. You could think of things of that kind where the situation could occur with individuals only, and yet the discretion and power to use this great machinery is left in the hands of one man?

Mr. GARFIELD. Yes.

Mr. ADAMSON. Everything in the way of business that crosses a State line is interstate commerce, whether it is an ox cart or a foot pedal. The question is, What detail of origination and invention shall we carry?

Mr. GARFIELD. I have always recommended in my reports that the first step along the line of license shall be applied to corporations. There are certain instances, it is true, where individuals are doing an enormous business, but they are an exception to-day, and for my own part I believe it is wiser to extend the power of the operations of the Federal Government over the corporations first than to include all individuals in the same act. But that is a matter of individual opinion.

Mr. ESCH. This bill authorizes the commission so appointed to recommend remedial legislation. In your opinion is that an advantage or a disadvantage, in view of the fact that that recommendation for legislation might be out of harmony with existing State law?

Mr. GARFIELD. That would be for the members of each commission to see to—how far they ought to make recommendations of that kind; and I can see no disadvantage in authorizing the report to Congress of their recommendations. There again it would be for Congress to determine how far they would seek by Federal legislation to affect conditions that are now controlled by State legislation. The principal subject that would be so touched would be what comes under the definition of police powers.

Mr. ESCH. If that sentiment was strong enough, then it might result in a change of a State law?

Mr. GARFIELD. It might very readily.

Mr. MANN. We have pending here before us a proposition to investigate child labor—in the House of Representatives—and a proposition to investigate the subject of the labor of women in industrial employments, and a proposition to investigate the length of hours of labor in different parts of the country, and so forth and so on. Now, would it be possible under this, if the Administration desired to appoint a commission to investigate a subject, to take advantage of any little strike somewhere and appoint a commission which, in order to arrive at a conclusion in that case, would feel that it was necessary to investigate the whole subject-matter without the direct authorization of Congress?

Mr. GARFIELD. I do not see anything in the bill that states the exact scope of the questions that might arise. That, necessarily, as I understand, in this measure is left to the discretion of the President and the Commission, and it is quite true that there might be what you call a fictitious case presented if an Administration saw fit to attempt to make an investigation of that kind.

Mr. MANN. Would it not be quite probable, in the event that some case did arise somewhere involving any of these questions, that in order to settle that particular case, and possibly to present recommendations to Congress, the Commission would not only feel it desirable but necessary to investigate that whole subject-matter?

Mr. GARFIELD. If necessary I think they ought to make the investigation. If it were a question of desirability, that would have to be left to their discretion.

Mr. MANN. So that a bill like this might start half a dozen commissions into being to investigate any subject in connection with manufacturing or labor?

Mr. GARFIELD. If there were difficulties between employers and employees.

Mr. MANN. Of course there are always difficulties somewhere.

The CHAIRMAN. Suppose that condition described in section 1 of this bill exists. Does not the Bureau of Corporations under the present law have the power to do everything in the direction of securing publicity that is provided for in this bill?

Mr. GARFIELD. As far as corporations are concerned, without doubt it has.

The CHAIRMAN. So that by this bill we are only enlarging the law to make it applicable to the condition that involves an individual or a partnership as a manufacturer?

Mr. GARFIELD. Yes; so far as the Bureau of Corporations is concerned, yes; so far as the possibility of that being done, no. It would be utterly impossible, with the general investigation of industries that is being made for the Bureau, to undertake special investigations of the character contemplated by this bill.

Mr. ADAMSON. Strikes and disturbances are exceedingly rare in the cases of individual employers, are they not?

Mr. GARFIELD. I am not positive as to that.

Mr. ADAMSON. They generally occur in large corporations?

The CHAIRMAN. Following out that line of questions, what is there lacking in the present law that in any way stops or checks or limits the power of investigation on the part of the Commissioner of Corporations?

Mr. GARFIELD. Nothing whatever.

The CHAIRMAN. He could make under the present law a full and complete investigation of the situation described in section 1 of this bill?

Mr. GARFIELD. I have no doubt of it.

The CHAIRMAN. So far as it applied to a corporation?

Mr. GARFIELD. So far as it applied to the control, management, and conduct of corporations.

The CHAIRMAN. Do you think the report of a special commission appointed for a specific purpose would have a greater influence in forming correct public opinion in regard to a dispute than the accom-

plished, efficient, experienced officers that are appointed under the interstate commerce law would have?

Mr. GARFIELD. So far as the corporate end of it is concerned, I think there would be little or no difference between them. Probably the report of the Commissioner of Corporations would have more weight than the report of a special commission, if the office were properly organized. On the other hand, this bill deals with the labor question from the labor side of it, and involves investigations into matters in which the Bureau of Corporations can not make its investigations with the same degree of efficiency, because of its lack of knowledge of this business, as could, for example, Mr. Neill, of the Bureau of Labor, or a special commission whose members would supposedly have qualifications for the determination of matters affecting more directly than they do the corporate organizations.

The CHAIRMAN. Now in that same Department there is a Commissioner of Labor, is there not?

Mr. GARFIELD. There is.

The CHAIRMAN. He would have jurisdiction over the labor side of a controversy such as is described in section 1, would he not?

Mr. GARFIELD. In so far as obtaining information would go, he would. I do not recall the exact scope of his functions.

The CHAIRMAN. As to obtaining information and giving publicity to the facts?

Mr. GARFIELD. Yes.

The CHAIRMAN. Then is it your opinion that the benefits to be derived from this legislation would consist of the extension of the authority of this act under the Government to cases of individuals and copartnerships and associations, as distinguished from corporations?

Mr. GARFIELD. Yes; in this sense, that it affords another agency for the dealing with particular instances.

The CHAIRMAN. Well, from that there would be no benefit, would there be, or if there would be, what would it be, in multiplying agencies, if we now have an agent with the ability as to time and opportunity to make the investigation?

Mr. GARFIELD. If there were already an agency that had the time and the funds, there certainly would be no need of establishing another.

The CHAIRMAN. Have we that agency now?

Mr. GARFIELD. I think not. I think that the Commissioner of Corporations could not, with the work now being carried on and with the appropriations at his disposal, by any possibility attempt to conduct a special investigation of a great strike.

Mr. ADAMSON. Mr. Chairman, I do not desire to interrupt your line of questions, but just there he repeated the same thing, and I wish to call your attention, as well as his, to it: That it seems to be the idea of Mr. Garfield that the authority of the Commissioner of Corporations to investigate is limited to the fact that wages and strikes and laborers are involved. I would like to ask him whether his jurisdiction over corporations does not involve the right to inquire into all incidents and elements that those corporations deal in, including labor?

Mr. GARFIELD. There is no doubt about that.

The CHAIRMAN. Here is a condition that is described in the first section of the bill: The commerce of the United States is interrupted. In the investigation of that matter would you not have the right, as Commissioner of Commerce, without regard to questions of labor—although questions of labor were involved also—to investigate that matter and give publicity to the causes of that interruption?

Mr. GARFIELD. I have no doubt but that that can be done by the Commissioner of Corporations.

The CHAIRMAN. And in that way bring about or exert this moral influence?

Mr. GARFIELD. I have no doubt that can be done under the law.

The CHAIRMAN. Under the law to-day?

Mr. GARFIELD. Yes.

Mr. WANGER. Are there appropriations sufficient available for that purpose?

Mr. GARFIELD. There would not be.

Mr. MANN. Is it not just as easy for Congress to appropriate for the Bureau of Corporations as it would be to appropriate in some other way?

Mr. GARFIELD. Yes; but the question there, Mr. Mann, would be this: That it would be quite beyond the physical possibility or ability of one man to attempt to hold hearings or make investigations of the many cases of strikes or differences between employers and employees.

Mr. MANN. The Commissioner of Corporations, I take it, does not do all the work in that Department?

Mr. GARFIELD. Under the law there are just two officers authorized to conduct hearings. Those are the Commissioner and his deputy.

Mr. MANN. Only two officers authorized to take testimony; but you have done that. You have made many investigations, but thus far you have never invoked that part of the law.

Mr. GARFIELD. I beg pardon; we have.

Mr. MANN. In what cases?

Mr. GARFIELD. I have done so in the oil cases.

Mr. MANN. But it has been invoked very little and very seldom.

Mr. GARFIELD. Not very much.

Mr. MANN. You have usually operated under the general authority through other officials?

Mr. GARFIELD. It was simply because the people concerned made no opposition. When you come to parties in controversy then the parties will not come until they have to.

Mr. MANN. Do you think we will have enough controversies in the United States so that the deputy or the Commissioner himself could not have a hearing occasionally and exercise that authority given in that part of the law that has not been exercised two weeks since the law went into force?

Mr. GARFIELD. The Commissioner or his deputy have not been sitting by idly waiting for opportunities.

Mr. MANN. The work done by the deputy can just as well be performed by some one else. Let him perform the functions that he can perform. Would not that be practicable?

Mr. GARFIELD. It would be under certain circumstances.

Mr. ADAMSON. I believe you sanction the idea that the exercise of this power would discourage wrongdoing and give less reason for

these investigations. If that doctrine applies, there will be time to ask for help when you are crowded.

Mr. GARFIELD. You could not tell until you tried it.

Mr. MANN. Do you have any occasion to exercise the authority now conferred upon the Commissioner and the Deputy Commissioner of Corporations?

Mr. GARFIELD. I have.

Mr. MANN. In case of any controversy between a corporation and its employees over wages or hours, or anything of that sort?

Mr. GARFIELD. No, sir; we have not.

Mr. RICHARDSON. Now, Mr. Garfield, is it not a fact that under the publicity or publication provision of the law creating the Department of Commerce and Labor you have authority to do this; that the Commissioner of Corporations has this authority to investigate any matter, for instance, in the nature of a strike, and to employ all the facilities and necessary aids that he desires to make a thorough investigation to find out those facts, what they are, and to submit them to the President of the United States, and that he has got the authority to suppress any of the facts under that publication section that he pleases, and publish the others? Now, what additional help or aid in the matter of investigation under this bill would you have more than you have now under the proposed law, in that seventh section?

Mr. GARFIELD. I have no doubt but that under the law as it now stands either the President or Congress or the Secretary could direct the Bureau of Corporations to make an investigation of any conditions that arose as a result of a strike, and that he would have full authority to obtain all the facts.

Mr. RICHARDSON. And submit them to the President?

Mr. GARFIELD. Yes; and submit to the President.

Mr. RICHARDSON. And the President has the right to suppress or publish the facts, as he pleases?

Mr. GARFIELD. Undoubtedly.

Mr. RICHARDSON. What other authority could he have for the welfare and advancement of the country beyond that?

Mr. RYAN. Might not the Commissioner of Labor act in the same capacity?

Mr. GARFIELD. I do not recall the scope of the authority given to the Commissioner of Labor.

Mr. MANN. My recollection is that it is even broader.

Mr. RICHARDSON. Have you not invoked that authority yourself?

Mr. GARFIELD. Not so far as it affects the relations between capital and labor.

Mr. RICHARDSON. But you have authority to do so?

Mr. GARFIELD. Without doubt there is authority to make examinations into any copartnership, firm, or corporation. The authority exists there, without doubt.

Mr. TOWNSEND. Would you have authority to compel the attendance of witnesses in investigating the labor side of a controversy of that kind?

Mr. GARFIELD. If it affected the conduct and management of a corporation we would.

Mr. TOWNSEND. If it simply affected interstate commerce that resulted from a strike would you feel authorized under the authority given you to investigate a case of that kind?

Mr. GARFIELD. It would depend entirely upon each instance as it arose. There might not be the authority if it arose in such a way as not to affect the conduct or management or operation of the corporation.

Mr. TOWNSEND. The Bureau was not organized with the idea of investigating strikes that did not directly affect the corporation itself?

Mr. GARFIELD. Certainly not.

Mr. TOWNSEND. It was not intended to investigate matters resulting from a strike in which the corporation people were not directly interested?

Mr. GARFIELD. So far as I know, that is right.

Mr. MANN. But the law did contemplate that you could make an investigation of that kind.

Mr. GARFIELD. I may say it would affect railroads in that way.

Mr. TOWNSEND. I am getting at that. You have not anything to do with railroads?

Mr. GARFIELD. No, sir; nor any other common carriers covered by the interstate-commerce law.

Mr. MANN. There would be a question about the express companies?

Mr. GARFIELD. As I understand it, they were included, and the Interstate Commerce Commission is now exercising authority over them under the recent act.

Mr. MANN. The act creating your Bureau and Department was passed at a time when it was held that they were excluded, and I take it that there was nothing in the new act which took away any jurisdiction that you had, if you had it.

Mr. TOWNSEND. Now that Mr. Mann has brought up the legal proposition, I want to ask you your opinion of that. Do I understand, inasmuch as the law has declared express companies and Pullman car companies to be common carriers, that your Bureau of Corporations would have jurisdiction over them now?

Mr. GARFIELD. No; I think it would not.

Mr. RICHARDSON. Is it not a fact, Mr. Garfield, that under the publicity clause of the act which created the Department of Commerce and Labor, the President of the United States has the right to suggest to you to make any investigation that he sees proper connected with corporation matters?

Mr. GARFIELD. He can, and either House of Congress can.

Mr. RICHARDSON. And, incidental to doing that, to employ any persons you deem necessary to carry out those suggestions?

Mr. GARFIELD. Undoubtedly.

Mr. TOWNSEND. Do you think the President has any authority under the law to ask your Department to investigate a common carrier?

Mr. GARFIELD. No; I always refer, in speaking of jurisdiction, to the jurisdiction conferred upon the Bureau of Corporations.

Mr. TOWNSEND. I understood Mr. Richardson to say that it included railroads.

Mr. RICHARDSON. Under the publicity clause the law gives the President authority to suggest to the Bureau of Corporations any investigations that he thinks proper to have made concerning corporation matters. I have a very distinct recollection, as the chairman of this committee has, and as I think Mr. Mann has, of all that discus-

sion about the publicity clause and about the scope it took and the discussions on the conference report.

Mr. TOWNSEND. Now, as to the value of the publicity feature of the work of this proposed commission, you have had one case in point recently, have you not? I know the Bureau of Labor has, with reference to the Texas strike.

Mr. GARFIELD. That is under the Bureau of Labor, and I have no information on that subject.

Mr. TOWNSEND. Mr. Neill knows about that?

Mr. GARFIELD. Yes; Mr. Neill knows about that. The case that has been principally before the Bureau of Corporations was the Standard Oil investigation. As a result of the investigation of the Standard Oil Company every discrimination that that company has received, every rebate that has been granted to it, and every form of device it has utilized for the purpose of obtaining an advantage over its competitors, so far as it affected transportation, has been stopped since the publication of the report on transportation. The independent refiners and producers of oil tell me that it is the first time for twenty-five years that they have been free from the discriminations that have been practiced against them and in favor of the Standard Oil Company. This has been accomplished by publicity. The facts being given, the practices have stopped. The giving of the facts has stopped these discriminations.

Mr. MANN. The fines have not been levied?

Mr. GARFIELD. They have not been levied yet.

Mr. MANN. Not against the Standard Oil Company, but against the railroad companies.

Mr. RYAN. Now, in regard to your Bureau making an investigation of a great railroad trouble, when this Department of Commerce and Labor was created there was a great deal of discussion as to whether or not labor would be represented in the Department. Now, there is a Bureau of Corporations and a Bureau of Labor. Do you think, in view of that discussion and of the feeling among the laboring interests of the country, that an investigation made by the Bureau of Corporations would be considered satisfactory by one of these parties interested in the great strike—by the striking men, for example?

Mr. GARFIELD. I think that would be determined by the character of the investigation—its carefulness, the degree of efficiency shown in making the investigation, and so on. I do not believe that the mere fact that one organization or the other of the Government makes the investigation would prejudice the result in the minds of the people affected by it. I think the acceptance of the result would be determined by the efficiency and the character of the investigation itself.

Mr. STEVENS. I would like, Mr. Garfield, to call your attention to the first section of the act. The scope is considerably wider than this discussion has indicated. It provides, first, for controversies concerning the transportation of the United States mails; second, concerning civil operations of the Government of the United States; third, concerning the military operations of the Government of the United States; and fourth, concerning the movement of commerce among the several States and with foreign nations. Now, there are four classes of functions of the United States Government. First, for the transportation of the United States mails: Are not the laws

adequate by which the Post-Office Department can protect itself at present?

Mr. GARFIELD. I can not speak fully on that, because I do not know the laws; but I suppose they are.

Mr. STEVENS. Has any complaint come to your knowledge that the Post-Office Department can not protect itself in the transportation of the mails on account of controversies of one sort or another?

Mr. GARFIELD. No such complaints have reached me.

Mr. STEVENS. Second, civil operations of the Government of the United States: I take it, that would affect the Treasury Department. Has anything come to your knowledge that the Treasury Department could not protect itself?

Mr. GARFIELD. I have never heard of it.

Mr. STEVENS. Then the Interior Department—I suppose that would affect the Geological Survey, the pensions, the public lands, and the Indians. Has any knowledge come to you that that Department could not protect itself?

Mr. GARFIELD. Not that I am aware of.

Mr. STEVENS. Then, as to the Department of Justice, has any knowledge come to you that the Department of Justice could not protect itself or could not protect the interests of the Government when any controversy arose?

Mr. GARFIELD. I have never heard of it.

Mr. STEVENS. Then, as to the Department of Agriculture, has any knowledge come to you that the Department of Agriculture could not protect itself?

Mr. GARFIELD. Not that I have heard of.

Mr. STEVENS. Then, as to the military departments, the War and Navy; they could certainly protect themselves in any controversy that arose, so that this act would resolve itself finally, since your Department has already jurisdiction of corporations, to matters relating to individuals and partnerships engaged in interstate commerce.

Mr. MANN. Do you think this could be stretched far enough to investigate the Brownsville affair?

Mr. STEVENS. I do not know, but in the last analysis this would resolve itself into a change of law, affecting the rights of partnerships engaged in interstate commerce.

Mr. GARFIELD. I have not studied it, but from your statement it would seem to be so.

Mr. STEVENS. That is about what it would analyze into. What we want to find out is exactly what this law if enacted would accomplish.

Mr. GARFIELD. I can not tell you that, because I am not the author of it. I am speaking of the general proposition of the effect of publicity.

Mr. BURKE. Since you have been in your present position, Mr. Garfield, do you have in mind any case where a corporation has been affected, where there has been a strike, wherein you would have recommended the appointment of a commission, as provided by this bill, if this bill had been the law during that time?

Mr. GARFIELD. Yes; there are two instances that I think of now.

Mr. BURKE. What are they?

Mr. GARFIELD. The strike with the packers in Chicago, and the strike with the teamsters in Chicago. I believe that in the case of either one of those a Federal commission organized in this way might have been of very material benefit to both sides in those controversies.

Mr. KENNEDY. And as to the anthracite coal strike?

Mr. GARFIELD. That was prior to the organization of the Bureau, you will remember.

Mr. KENNEDY. Yes. The purpose of the proposed law is supposed to be to provide something that could be quickly employed in cases of great exigency, such as these strikes put upon the country?

Mr. GARFIELD. Yes; and in connection with that packers' strike this occurs to me, and it bears directly on one of the questions formerly asked me regarding the powers of the Bureau of Corporations in such cases: My men were in Chicago at that time investigating the other side of the beef-packing industry, and I found that there was the greatest suspicion of the agents who had anything to do with the packers' books in any way. They said, "Here the Commissioner of Corporations is investigating the packers' side of this thing. Therefore we do not want to give any information to the Commissioner of Corporations, because he deals with the corporate side of this thing." One of my agents out there who knew the labor men very well was able, however, to get some information from them, but he said that the men felt just that way about it. The mere fact of the name being the "Commissioner of Corporations" led those men to believe that the Federal agency dealing with corporations was not the agency that they would want to submit their facts to.

Mr. ADAMSON. They did not understand that the Bureau of Corporations is established for the purpose of curbing and regulating corporations rather than promoting them?

Mr. GARFIELD. They did not seem to understand that.

Mr. MANN. How widespread was the packers' strike?

Mr. GARFIELD. It was local, of course.

Mr. MANN. It did not extend outside of Chicago, did it?

Mr. GARFIELD. No; but it affected the business interests of the country, of course.

Mr. MANN. How widespread was the teamsters' strike in Chicago? Did that extend outside of Chicago at all?

Mr. GARFIELD. Only in so far as it might have affected traffic.

Mr. MANN. I mean the strike. I am not talking about the effect.

Mr. GARFIELD. I was speaking of the reasons why the Federal Government might have interfered in those cases.

Mr. MANN. I asked you whether the strike extended beyond the local center in Chicago?

Mr. GARFIELD. I think not, so far as the men going out and on strike were concerned.

Mr. MANN. My recollection is the same as yours as to that, although I was not absolutely certain as to either one of them. In your judgment a strike that is purely local, so far as the strike itself is concerned, is still of sufficient importance to warrant the appointment of a commission by the President?

Mr. GARFIELD. Not necessarily. You would have to determine that by the effect it has upon commerce at large.

Mr. MANN. Your judgment is that these strikes, though purely

local, were of sufficient importance to warrant the appointment of a board of arbitration by the President?

Mr. GARFIELD. Yes; because in each instance I understand that they did seriously interfere with the general movement of traffic. I do not mean by that the local traffic, but the traffic that affected the movement of the commodities in and out of the city, involved in interstate commerce.

Mr. MANN. The teamsters' strike at Chicago, of course, could not interfere to a great extent with any traffic except traffic emanating from Chicago.

Mr. ADAMSON. Where it was destined to other points in the Union.

Mr. MANN. There are other ways of getting railroad freight in and out of Chicago than by teams.

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Mr. MANN. There is no doubt but that it affects interstate commerce to move freight out of Illinois into Indiana; but what I wanted to get at was, How often in your judgment would a law like this, if enacted, be put into operation? It has been stated here, I may say to you, by some gentlemen the other day, that there ought not to have been an arbitration in the case of the teamsters' strike in Chicago. I asked that question, and it was said that it ought to be confined to cases where it is general over considerable sections of the country. Your judgment about that would be worth more than mine.

Mr. GARFIELD. It would be a matter of Executive discretion to determine how far it would affect the public interests. It would be for the Chief Executive to determine that.

Mr. MANN. This board would be appointed by the President. His actions would be guided necessarily by the representations to him. He can not have any personal knowledge of a strike somewhere else?

Mr. GARFIELD. Certainly.

Mr. MANN. He would be guided either by newspaper reports or by representations made to him by delegations, or by certain officials; likely by the Commissioner of Labor or the Commissioner of Corporations; so that it might not depend upon the judgment of the President, but upon the judgment of an official in some Department. We sometimes trace them down.

Mr. GARFIELD. It might even be upon the recommendation of some Members of Congress. [Laughter.]

Mr. MANN. It is very seldom that any of the Executive Departments act upon the recommendation of Congress. That is my experience.

Mr. ESCH. In the great railroad strike of 1894, at its center in Chicago, there was not only involved interstate commerce, but also the transit of the mails and the use of the military. Now, the military department could settle the military difficulty, but not the interstate-commerce difficulty. The Post-Office Department could settle the mail duties, and still not the interstate-commerce features, so that, after all, there would still be a function for your commission to perform in settling the trouble?

Mr. GARFIELD. No doubt, so far as the interstate-commerce question is concerned, there would be.

Mr. ESCH. So that there would be a function for such a commission in the cases which Mr. Stevens mentioned?

Mr. GARFIELD. Undoubtedly.

Mr. TOWNSEND. There is a question as to policy whether that ought to be done. There is no question about the power. It is as to the policy or propriety of what ought to be done?

Mr. GARFIELD. Undoubtedly.

Mr. MANN. Is there not a question, Mr. Garfield—you have investigated the subject as to your power, the power conferred upon you—is there not some question of constitutional authority in that section of the act creating your Bureau?

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Mr. GARFIELD. Not so much as there used to be.

Mr. MANN. Some cases where the Federal Government did interfere might be declared unconstitutional?

Mr. GARFIELD. It might happen at times.

The CHAIRMAN. Mr. Garfield, is it not your observation that in the settlement by outsiders of disputes between corporations and their employees those settlements are usually made upon a basis of increase of wages?

Mr. GARFIELD. I have not sufficient information, Mr. Hepburn, to answer that question, or to say what the statistics would show.

The CHAIRMAN. There may be many causes—questions of hours, you might say, or questions of wages; but is it not your observation that the settlement or adjustment is usually upon the basis of a waiver of the question of hours and an agreement upon an increase of wages?

Mr. GARFIELD. My general impression is that, but I have not accurate information upon which to state it definitely.

The CHAIRMAN. I supposed that was the case. Now, I would like to ask, supposing that to be the case, what would be the effect, if you have any opinion, of the enactment of this legislation upon the furtherance of that tendency? I can see how, where there is a dispute growing out of many subjects, it would be to the interest of the corporation to settle the dispute upon the increase of wages, because that burden thereby imposed can be shoved off upon the general public, and I thought I had noticed a tendency of that kind. If that is true, what would be the effect of this particular legislation as against legislation that would enlarge the functions of your bureau, if there would be any?

Mr. GARFIELD. I do not think the effect—if I grasp the question exactly—I do not think the effect would be much different, whether the machinery is put in operation through this special commission or through the Commissioner of Corporations, if his duties were enlarged and his appropriations were enlarged and he was required to

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do this work. I do not see that there would be much difference between the two.

The CHAIRMAN. Would it not be more certainly fixed and more certain of operation when adjusted by an officer who was in place, and who was aware of the fact that these questions would have to be dealt with from time to time to secure a complete adjustment, rather than the adjustment of a single particular case, and, in that event, would not a sporadic commission look to the result, more particularly to the settlement of the single dispute, and put it on the basis of wages, rather than effect an adjustment that would involve perhaps further inquiries and the settlement of these other questions?

Mr. GARFIELD. Of course, there, again, it would result from or depend upon the personality of the commission. I think there still might be that tendency if the commission were appointed under certain circumstances to secure that result.

The CHAIRMAN. To secure an immediate adjustment of that kind, rather than adjustment upon broader principles, that would be much more permanent in character?

Mr. GARFIELD. That might be true, of course, but this is also true, that any adjustment made between the employer and employee is necessarily a temporary one, unless it happens to involve very broad and fundamental principles, which ordinarily these disputes do not involve. These settlements are nearly always temporary. They will come back again in the future years for reopening and readjustment of controversies.

Mr. RICHARDSON. The commission provided for in this bill, I understand, is temporary, is it not?

Mr. GARFIELD. Yes; for temporary periods in each instance.

Mr. TOWNSEND. Mr. Neill, we shall now be glad to hear from you, or, Mr. Chairman, will you tender the invitation?

The CHAIRMAN. No; I will defer to you in that. Proceed.

STATEMENT OF MR. CHARLES P. NEILL, COMMISSIONER OF LABOR, DEPARTMENT OF COMMERCE AND LABOR.

Mr. TOWNSEND. Mr. Neill, what do you understand is now your authority under the law, as Commissioner of Labor, to investigate matters covered by this bill?

Mr. NEILL. As I understand it, Mr. Townsend, the Commissioner of Labor has the right to investigate anything that he can get information on, but he can not compel anyone to furnish information on any subject.

The CHAIRMAN. How is that, Mr. Neill?

Mr. NEILL. I say the bill creating the Bureau of Labor is very broad in one sense. We have the right to investigate almost any subject we want, but we have not the power to make any human being give evidence or information of any kind, and all the work the Bureau has ever done has been based on information voluntarily furnished.

Mr. KENNEDY. So that any report that you might make could be discounted, perhaps, by the statement that you had no information?

Mr. NEILL. No, sir; it could not be discounted for one second. Take, for example, our work on wages and prices. No mere statement of anybody is ever accepted. If the employer will not give our

agent access to his books, we will drop his establishment. Permission is voluntarily given to our agents to get the data.

Mr. ADAMSON. You do verify the information you get?

Mr. NEILL. Yes; or, rather, we get it ourselves. In all cases we get the information from original sources, and if permission is refused we make no attempt to get it or publish it.

Mr. TOWNSEND. I would like to have you state, Mr. Neill, if you would, your views—you have heard the discussion here this morning—as to the proposed scope of this commission and as to the powers that may be exercised by the Department of Commerce and Labor.

Mr. NEILL. Of course I am not a lawyer, Mr. Townsend, and I should be very reluctant to take issue with Mr. Garfield on any question of law. But I doubt very much whether the Bureau of Corporations, in view of the fact that such a thing was never dreamed of when it was created, could compel a labor organization to show their books or testify concerning very many things connected with a strike, and things of which it might be very important that the public should have knowledge, as, for example, the reasons for the inauguration of a strike and the means adopted to secure its inauguration, and the like.

There are very many questions there concerning which I doubt whether the Commissioner of Corporations would have the power to compel evidence. It might be important to look rather to the management of the labor organization than to the corporation, and it might be important to the public to know how sanely and conservatively and wisely and honestly that labor organization was being officered.

Mr. ADAMSON. Are these labor organizations incorporated?

Mr. NEILL. A few of them may be, but many of them are not. I do not know whether that is a fact that occurred to Mr. Garfield.

Mr. RYAN. That is a fact—that very few of them are incorporated.

Mr. NEILL. There would be many points in such an investigation that would be remote from the corporation. Take, for example, the Sam Parks strikes in New York and others that I know of. It would be very important to go in there and to get into the purpose and real motives behind the ordering of those strikes; but I do not believe that under the existing law the Commissioner of Corporations would have the power to go into that aspect of it, and to my mind that is one of the most important aspects. And I may say right here that in some of our most important strikes, which grow to very great lengths and inflict enormous damage on the public, there is improper action upon both sides, and just as much of it upon one side as upon the other.

Mr. ADAMSON. Are labor organizations reluctant to furnish their information?

Mr. NEILL. Both sides would be equally reluctant in the cases I have in view.

Mr. ADAMSON. The information I had was that they are always willing to show up.

Mr. NEILL. They are precisely like the rest of human beings; they are ready to show up anything to their own credit. I have never found a labor organization different from the employers' organizations when it comes to a question of human nature. They are identical in that respect.

If this bill were enacted into law, the moment any question in a strike became important enough some one could come in and enforce a complete revelation of practices on both sides, and that fear of publicity would have the great and beneficial effect of requiring that their matters be conducted on a thoroughly decent basis. I think that would be one of the most important effects of the bill.

Mr. TOWNSEND. Are you familiar with that Texas matter down there?

Mr. NEILL. Yes, sir.

Mr. TOWNSEND. Were you in any way connected with it—I mean the recent strike on the Southern Pacific in Texas?

Mr. NEILL. Yes, sir; I had a hand in the settlement of that strike.

Mr. TOWNSEND. How did you get into that, Mr. Neill?

Mr. NEILL. There is an act of Congress known as the "Erdman Act," which provides that in any case of a dispute between an interstate carrier and its employees which threatens to interrupt interstate commerce, upon the application of either party to the controversy the Chairman of the Interstate Commerce Commission and the Commissioner of Labor shall put themselves in communication with the other side and endeavor to act as a board of mediation, and, in the event of the failure of mediation, to endeavor to secure an arbitration. The act provides quite at length the modus operandi of the arbitration.

In this particular case the strike was to be called on Sunday. On the Saturday previous the railroad company telegraphed to the Chairman of the Interstate Commerce Commission and to the Commissioner of Labor, requesting them to act under the terms of this act and use their offices as mediators, and to try to bring about a settlement and prevent the strike. We were also requested by the other parties to the strike, by the firemen, to act in the matter, so that we went into the matter at the request of both sides to the controversy, and were thanked by both sides to the controversy at the end of it. Our action in the matter was entirely at their request, and until the end entirely with their consent and their good will.

Mr. ADAMSON. Admitting the correctness of your opinion, that the existing law is defective as to the power of your Bureau and the Bureau of Corporations to compel testimony, would it not be easy to amend the existing law as to that?

Mr. NEILL. I differ from the Commissioner of Corporations upon that point also. I do not think the opinion of any individual would carry the same effect—

Mr. ADAMSON. You mean anyone who is an officer—

Mr. NEILL. You can not discriminate between an officer and an individual. If he is biased as an individual, whatever bias he would have would affect him in his official as well as in his individual capacity.

Mr. ADAMSON. It would be the same way, would it not, with the members of the Commission?

Mr. NEILL. No. In that case you have two or three views there. In all these controversies are involved not merely questions of wages and as to hours of labor, but questions of right, questions of ethics. It has been so in the past and it is becoming increasingly so. Those questions of right and ethics are becoming more prominent every day

in strikes. They are matters upon which there is no definite crystallization of public opinion.

They are questions upon which many men feel very strongly on one side or the other, and many men having views, distinctive views, on this point or that point or the other would not be competent alone to investigate and make a report or place the blame in any individual case, whereas a commission of three men of different views would be more likely to bring in a report that would command public confidence.

Take the question of the closed shop, for example. It is a question upon which many men feel very strongly and have very settled convictions. It would be utterly useless to send a man with preconceived or biased notions upon that subject—a man whose judgment is made up in advance. It would be perfectly futile to send such a man into a controversy concerning the closed shop and to expect his conclusions to carry weight.

The CHAIRMAN. What do you mean by "closed shop?"

Mr. NEILL. I mean a shop in which a contract has been entered into with an organization of laboring men to employ only members of that organization in the shop.

Mr. MANN. That is a union shop?

Mr. NEILL. Yes.

Mr. ADAMSON. Closed to everybody else?

Mr. NEILL. Yes; closed except to the members of the union.

Mr. KENNEDY. An open shop is where anybody can be employed, union or nonunion?

Mr. NEILL. Yes.

Mr. ADAMSON. The only way to get a man without preconceived ideas on a subject is to get a man who does not know anything about it?

Mr. NEILL. No; get men of different views.

Mr. ADAMSON. If you had two men of directly opposite views, the third man would be the one who would make the determination.

Mr. NEILL. In cases like that the three of them might report a decision only on those points that could be agreed upon.

Mr. BURKE. Let us get back, gentlemen, to the Texas case.

Mr. TOWNSEND. Yes; and tell us, Mr. Neill, whether in any way it bears upon this controversy here.

Mr. NEILL. It does in one sense, Mr. Townsend. As a matter of fact, the controversy was brought to a settlement, and the parties are now in an arbitration under the provisions of the act of Congress. Before the settlement was reached there was at one time a very serious possibility—there was even a strong probability—that if a settlement was not reached in that controversy it would have extended over the entire Harriman System of railroads; an attempt would have been made to tie up the whole western section of the United States. If that point had been reached, if the efforts made under the present law had failed, and there had been no arbitration, I think it would have been very important that a commission should have gone in there very early and looked into the matter and fixed the responsibility for the extension of the strike.

In one sense there were three parties to the controversy resulting in the strike, each one disclaiming entirely and responsibility for the conditions; and some of them, if they had felt that a commission

was going to fix the responsibility for the strike on them directly, would have been much more amenable to mediation and conciliation; and the fear that the blame would have been fixed upon them for the intolerable conditions that would have resulted would have brought about a settlement much more quickly.

MR. TOWNSEND. Who were the three parties, and what were the differences?

MR. NEILL. This is a matter as to the discussion of which I feel some delicacy. In the first place, it was the most complicated industrial dispute of which I have had knowledge, and it would be difficult to state the facts off-hand without perhaps unfairly placing the blame; and, acting as a mediator between the three parties, I naturally came into more or less confidential relations with some of them, and therefore, unless the matter is considered to be one of great importance, I would prefer not to enter into details.

MR. TOWNSEND. The matter is still pending?

MR. NEILL. Yes.

MR. BURKE. We might hear what brought about the strike?

MR. NEILL. Yes. The Southern Pacific Railroad has contracts with both the firemen's organization and the engineers' organization. Recently, about six months ago, the contract with the engineers was reopened and certain changes made. The firemen then claimed that that change abrogated an existing contract which they, the firemen, had entered into with the company. The firemen sought to enforce a compliance with what they considered to be an amendment of their contract, but which the company denied was an amendment at all. Involved in the dispute was a jurisdictional dispute between the firemen and the engineers, so that any settlement between the company and the firemen was blocked by the fact that it infringed the jurisdiction of the engineers. The matter became extremely complicated, and very difficult to get a settlement on.

MR. BURKE. Then by the three parties you mean, the railway company, the engineers, and the firemen?

MR. NEILL. Yes, sir; and I say, as to each party to that, that I found this fact, which I think has a direct bearing on this bill: Each party was especially sensitive as to where the responsibility resided; and if the strike had gone further and had tied up the commerce of the Western States they would naturally have been still more sensitive, and some of them would have more readily made concessions if they had been aware that a commission could come in and investigate the thing from the beginning, and publish the result and fix the responsibility.

I think the effect of the bill would be that each party to a strike, before it became big enough to come within interstate commerce, would be very careful to consider its actions and its dealings and its responsibilities, because they would know that those actions and dealings and responsibilities would be held up to public scrutiny; and the effect of that would be that it would sometimes put an entirely different temper into strikes, on the part of employers and labor organizations alike.

Concerning this first clause of the bill, I would like to differ from the statement that has been made, that the Post-Office Department or any other Department of the Federal Government, even the Army or the Navy, has any power to protect itself in case of a strike. If

the strike were big enough there is no power on earth to move United States mails. You need an engineer and a fireman in any event, and if you can not get them the Post-Office Department or the Government would be helpless. If this strike had extended over the Harriman system no department in the States could have moved them.

(Thereupon, at 12 o'clock noon, the committee adjourned.)

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Tuesday, January 22, 1907.

The committee met this day at 10.30 o'clock a. m., Hon. James S. Sherman in the chair.

Mr. SHERMAN. Is there anybody here desiring to be heard on the arbitration bill?

Mr. TOWNSEND. Nobody besides Mr. Neill.

Mr. SHERMAN. Mr. Neill is here.

Mr. MANN. Here is the situation, Mr. Chairman: Some time last week the arbitration bill was set for Monday; the 2-cents-a-mile rate bill was set for Tuesday, to continue the hearings thereon. Yesterday morning the arbitration bill was laid aside in order to take up the sixteen-hour bill, with the understanding in the committee at the time, I think, that the arbitration bill would be taken up this morning. I do not know whether it was called to the attention of the committee at that time or not.

Mr. SHERMAN. Is there objection to proceeding now with the hearing on the arbitration bill and then adjourning this meeting, say, until to-morrow, for the further hearing of the 2-cents-a-mile bill after we finish this morning? If there is no objection, that will be the order.

Mr. GAINES. If there are persons out of town here who wish to speak on the 2-cents-a-mile bill, will not Mr. Neill be willing to come back to-morrow?

Mr. SHERMAN. How is that?

Mr. HARDWICK. It was the understanding that I was to go ahead this morning on the 2-cent rate bill. I have an engagement to-morrow afternoon to go to Raleigh, N. C., to appear before the legislature there on a similar hearing. Then I have an engagement in Richmond on Monday for a similar hearing there; and any other date that would suit the committee other than to-day would suit me.

Mr. SHERMAN. Is there any objection?

Mr. PAYSON. Mr. Chairman, may I make a suggestion? From what I know of the status of the arbitration bill, the examination of Mr. Neill will be very short, and if so, that would leave a half hour or three-quarters of an hour for Mr. Hardwick to-day.

Mr. SHERMAN. Very well. Let the order be that we will proceed with the arbitration bill for such time as is necessary to hear Mr. Neill, and then we will take up the 2-cents-a-mile bill.

Mr. HARDWICK. My statement will be rather brief. I should say that at the outside I will not take up more than an hour; but I think it would be more agreeable to the committee if I could make my statement in continuous form, without having to make part of it to-day

and part to-morrow, so that if this other matter is going to interfere to-day, and it is agreeable to the committee. I would rather come back to-morrow morning.

Mr. SHERMAN. We will again modify, and proceed, without objection, to the arbitration hearing now, and take a recess at the conclusion of our proceedings to-day until 10.30 o'clock to-morrow morning, when we will proceed with the 2-cents-a-mile bill. If there is no objection to that, we will now proceed on that order. Mr. Neill, we will hear you.

STATEMENT OF MR. CHARLES P. NEILL, COMMISSIONER OF LABOR, DEPARTMENT OF COMMERCE AND LABOR—Concluded.

Mr. NEILL. Mr. Chairman, I have nothing to say except whatever the committee wishes to make inquiries about. Understand me. I am not here, Mr. Chairman, at my own request or advocating any bill. I simply came at the request of the committee to discuss any matters which they should ask about in which they thought I could in any way assist them.

Mr. TOWNSEND. I would say, Mr. Chairman, that he was called back, after he had made a statement the other day, because a number of the committee said they wanted to ask him some questions.

Mr. SHERMAN. Mr. Neill, you have concluded your statement and are here to answer any inquiries that may be propounded?

Mr. NEILL. Yes, sir.

Mr. ESCH. I think when you closed, Mr. Neill, you were discussing the inability of the Government, for instance, to order the carrying of the mails. That is where you stopped?

Mr. NEILL. Yes. I think the point had been made that all the power given by this bill already existed, and that the Government is abundantly able to protect all of its civil and military functions.

Mr. STEVENS. Did you understand that from the questions I propounded?

Mr. NEILL. I think that was the impression.

Mr. STEVENS. I had no such intention in asking the questions.

Mr. NEILL. I understood it was suggested that the first page of the bill provided what the Government already had the power to do, and I suggested that in the event of a general strike, if the labor organizations were sufficiently united and the strike were sufficiently effective, there was no power whatever in the Government to turn a single wheel.

Mr. STEVENS. But, Mr. Neill, don't you know that the labor organizations are very reluctant to strike whenever they infringe upon a Federal law? Are they not reluctant, for instance, to strike against a street railway wherever the street railway carries the mail?

Mr. NEILL. I do not know whether they would be any more reluctant to withdraw from the service of a company that carries mail than from any other company if they felt they had a grievance.

Mr. STEVENS. Are they not reluctant to stop mail trains whenever there is a strike on a railway?

Mr. NEILL. A strike in what way?

Mr. STEVENS. To prevent the operation of the mails by violence, or in any way impede the transportation of the mail?

Mr. NEILL. I say if they had sufficient grievance they would not hesitate to withdraw from a company carrying the mail. I have known one or two cases in which they felt it was not necessary to interfere with the mails. They have agreed in those cases that they would withdraw from the service of the company, but leave men on mail trains so they would be free from interruption.

Mr. BURKE. Mr. Stevens's question is, Are they not more apt to refrain in such cases from using violence in stopping others from working?

Mr. SHERMAN. Mr. Stevens's question is broader than that. It is direct, whether or not Mr. Neill does not know that in contests where there have been strikes and violence the people using violence have specifically refrained from using violence when they have seen it was a mail train?

Mr. NEILL. Unquestionably. But I was speaking entirely aside from the question of violence. When you come to the question of violence, it is undoubtedly true that any person using violence would be more careful not to use violence in such a way as to prevent the interference of the Federal Government and the interposition of the Federal troops.

Mr. MANN. Is it not a matter of fact that different labor organizations at different times have protested against the practice known as that of permitting street cars to carry United States mails, because it would bring the Federal Government in conflict with the unions in case of strikes?

Mr. NEILL. I think they have felt, Mr. Mann, that it was an unfair advantage that was being taken by the street-car companies.

Mr. MANN. And they have protested?

Mr. NEILL. Yes; and they felt it was an attempt to involve them unnecessarily with the Federal Government. There is no question about that.

Mr. STEVENS. My point in the interrogation the other day was that the condition or sentiment on their part is a protection to any operation of the United States Government, which for the purposes of the Government would not require the passage of any additional legislation for governmental purposes—I mean, would not require the passage of any additional legislation.

Mr. NEILL. I did not intend, Mr. Stevens, to get into any argument over the question, but I shall say decidedly that it is a very weak form of protection. It simply relies on the good will of the various organizations, and they, being human beings, like the rest of us, that good will would be exercised only when it did not injure them, and if at any time it was necessary to tie up a mail train in order to bring about a condition which would enforce investigation they would do it.

I do not know that the labor organizations have this consciously in mind, but it is instinctively behind their actions. When they tie up any commodity or bring about intolerable conditions, it is with the belief and feeling that in the last analysis the public are responsible for the conditions complained of, and that in order to get any hearing and get the public to realize and adjust their grievances they have to make the public feel the brunt or pinch of it, and when they do that they think the public will then interfere and give them their day in

court. If it is necessary for a moment to tie up the mail trains in order to get a hearing on a proper grievance or to get justice, then they would tie up the mail trains.

Mr. GAINES. Then, Mr. Neill, would it not seem to involve the idea that the enactment of this legislation would be a temptation not only to strike, but, in the case of a strike, to endeavor wherever they could to distress the public and interfere with the transportation of Government mails in order to bring the Government into the matter? Would they not say, for instance, that instead of the Government exerting its power and enforcing the law and moving its mails, "The Government has the power to institute an investigation to see who is right and who is wrong," and that the Government should first make an investigation in every case and not enforce the law? In other words, wherever they wanted an investigation, would they not attack some Governmental agency, if possible, if we had such a bill as is proposed now?

Mr. NEILL. There are three points in reply to that, Mr. Gaines. In the first place, as I said in the beginning the other day, I do not think this power ought to be used except in very large and important disputes. In the second place, unless an organization had a grievance of sufficient importance to stand public scrutiny on it would not invite this power of investigation. In the third place, if it did have a grievance warranting it in doing that, I think it ought to compel investigation. That is, if the employees have a grievance of sufficient magnitude on which they can not get a hearing in any other way, I think they ought to force a hearing without the necessity of a prolonged strike.

Mr. STEVENS. Do you think it wise, as a matter of policy, of course, to submit to arbitration any controversy concerning the military power of the United States?

Mr. NEILL. I do not understand it is arbitration in that sense.

Mr. STEVENS. It submits the merits of a controversy to a select board—a controversy, say, which concerns the infringement of or the interference with the military authority of the United States. Do you think that is wise?

Mr. NEILL. Unquestionably, if there was any occasion for the military arm of the Government to act, it should act without regard to arbitration or anything else; unquestionably.

Mr. STEVENS. Is it not wise to let the military arm of the Government settle difficulties with the people in its own way rather than to call in an outside authority?

Mr. NEILL. I think so.

Mr. STEVENS. Then would it not be wise to strike out those words "or military," in the first section of this bill?

Mr. NEILL. In time of peace the military arm of the Government might be interfered with simply to the extent of having difficulty in transporting commissary supplies. It might be a small inconvenience, and a case in which the Government would not be warranted in calling out the troops and exercising its military power to enforce the transportation of its materials. If it was a question whether troops were needed at any place, of course the Government ought to use drastic means in transporting its troops. But that is a case that would occur with extreme rarity; probably never. But there would possibly never be a strike of any consequence on a common carrier

on which the operations of the War Department would not to some extent be interfered with. The transportation of their men and their supplies would be an inconvenience, slightly, no doubt. It would not be wise on account of such inconvenience to authorize the War Department to put into execution all the military power of the Government.

Mr. STEVENS. I know; but would not the cases you refer to be cared for under the last provision concerning the free and regular movement of the commerce between the States? Would not that be sufficient?

Mr. NEILL. I am not a lawyer, and—

Mr. TOWNSEND. What is your objection, Mr. Stevens?

Mr. STEVENS. My objection is that it is not wise to allow any commission or outside body to have any opportunity to interfere with the military power of the Government and to place any controversy involving the military power in the power of a board of arbitration.

Mr. KENNEDY. This would be cumulative. It would not interfere with any remedy that we already have.

Mr. STEVENS. If there was any interference with the military authorities there might possibly be a demand that a board of arbitration be appointed under the operations of this bill to consider the controversy concerning the military authority. I do not think the military authority of the country should be questioned.

Mr. TOWNSEND. Do you think there would be or might be any conflict there that would impair any one of them, and if so, is it not true that the Commander in Chief of the troops is the President of the United States, who is made the judge in this bill of the conditions under which the arbitration shall be invoked?

Mr. STEVENS. I do not think it would be a wise thing to do.

Mr. BARTLETT. In some localities that I know of the unions have passed resolutions forbidding the members to belong to the militia. I know that was the case a year or two ago, and a number of them withdrew from the militia. That happened, I say, a year or two ago.

Mr. STEVENS. It is not that the military operations could be interfered with. They could not be. But that sentiment might be created, and this might be a piece of machinery to increase the resentment of members of labor organizations against the military arm of the Government.

Mr. ESCH. Mr. Neill, going back to the mails, did not Judge Jenkins, in the celebrated injunction order in the Northern Pacific strike, I think in 1894, restrain trainmen from leaving trains carrying the mails?

Mr. NEILL. I remember that case very vaguely, Mr. Esch. I know the case, but my recollection is very vague at this time.

Mr. MANN. That was a case growing out of the Pullman strike?

Mr. ESCH. Yes.

Mr. MANN. Troops were sent to enforce the order.

Mr. NEILL. Troops were sent to prevent physical interference with the transportation of the mails.

Mr. KENNEDY. Did the order go to the extent of ordering the men not to quit work?

Mr. ESCH. I think that was Judge Jenkins's order on the Northern Pacific strike.

Mr. MANN. You may be right about that.

Mr. BARTLETT. I think he is right about it.

Mr. KENNEDY. That was not followed or sustained by the courts. That is beyond their power.

Mr. GAINES. The ground of it, as I recall, was that this was a conspiracy to interfere with the movement of the mails, and it prevented their leaving their work in a body in pursuance of that conspiracy which was declared to exist, and it was in the nature of a mandatory injunction to keep on with their trains.

Mr. MANN. In that case the men had quit work before the United States court had interfered at all.

Mr. SHERMAN. Is there any further inquiry to be made of Mr. Neill?

Mr. STEVENS. I would like to ask a question. Mr. Neill, you are familiar with the Australian and New Zealand laws?

Mr. NEILL. Yes.

Mr. STEVENS. Are you familiar with the provisions in their statutes relative to controversies concerning governmental functions?

Mr. NEILL. I do not recall precisely those laws, further than that there are half a dozen different systems in operation there. There is not a single system there at all. In some of them, my recollection is, though I am not clear on it at this time—my recollection is that governmental cases can come before their arbitration board as well as private cases. There is quite a misconception about the Australian systems. They are not one system, but four or five different systems, and what is true of any one of them to-day was not necessarily true last year, and may not be true of them a year hence.

Mr. STEVENS. You are familiar with the workings of those laws?

Mr. NEILL. In a general way.

Mr. STEVENS. Do you know whether any controversies have been submitted to that arbitration system concerning the operations of the Government—such controversies as we have just been discussing?

Mr. NEILL. I do not recall that there have been.

Mr. STEVENS. The only point I had in mind was that I would not want any arbitration system to get into a controversy concerning the operations of the Federal Government.

Mr. NEILL. I should quite agree with you there, that it was undesirable to have the Government abdicate its powers.

Mr. STEVENS. That is all, sir.

Mr. TOWNSEND. What can you say, Mr. Neill, as to whether, in your opinion, it would be better to have a commission appointed by some method similar to that contemplated in the bill, or to amend the law as it now exists and confer compulsory powers upon the arbitration board, consisting of the Chairman of the Interstate Commerce Commission and the Commissioner of Labor?

Mr. NEILL. I think that a commission such as is provided for in this law would be preferable.

Mr. TOWNSEND. Why?

Mr. NEILL. First, because it is important in every one of these disputes that everyone who sits on these arbitration boards, or, at least, a certain number or proportion of them, shall have actual knowledge of all the technical details of the industry in which the dispute has arisen; and on that account it would be important that every commission appointed should be appointed with a view especially of securing men of such special knowledge upon it. It might be a

good plan to have a nucleus of the commission permanent and add to it from time to time. But I think that the existence at any time of a part of the commission would be an inducement to use it in small cases, where it should not be used. I have tried to emphasize strongly my own opinion that this power should be used seldom, and I think the great value of this bill would be that it would have a moral effect and make its power seldom required, whereas I think a permanent commission would be more likely to be put in operation on a small excuse—much more likely than if the personnel had to be selected each time. And I think, further, that you could get men of better standing and of more weight in the community by selecting your commission at each particular time.

Mr. TOWNSEND. Now, what can you say as to whether, in your judgment, there is a growing necessity, owing to conditions of business and the organization of labor, and so on—a growing demand for some such agency as is contemplated in the bill?

Mr. NEILL. I think there is a growing necessity, on account of the fact that labor organizations themselves are becoming more and more solidified; and on the other hand our forms of business are becoming more and more under single control; and where formerly you had 50 different plants, now you have those 50 different plants placed under a single control, and a strike in one of them would now extend to all the plants of that same company, whereas formerly it might be confined to a single plant.

For example, if you had a strike to-day in any of the various plants of the United States Steel Corporation you would probably have a contest, finally, which might involve all the plants of that corporation, whereas before the consolidation the fight would have been directed only upon that particular plant where the immediate trouble occurred. To-day if a single department of a corporation inaugurates a strike, practically all the men in the employ of that corporation would very quickly go out if it was necessary to do that to win the strike in that particular place.

Mr. ADAMSON. Do you think it is more necessary to ascertain for the benefit of the public the facts in connection with a strike or labor controversy than it would be to secure the settlement of a particular strike?

Mr. NEILL. I think that ordinarily the moment the investigation began, in a majority of cases, both sides would be willing to return to the former status quo and leave the matter to be adjudged after this report was made.

Mr. ADAMSON. What do you say to a scheme of this kind—that when a difficulty arose involving interstate commerce or the mails each party should name at once an arbitrator, and the Government should name a third one, and the three together should settle the difficulty at once and put it on record?

Mr. NEILL. I think that would be compulsory arbitration.

Mr. ADAMSON. Of course it would be. If you are going to do anything, why not do it?

Mr. NEILL. There are certain fundamental principles and practices involved in these disputes that are so important to the parties concerned that any labor organization on the one hand and any employer on the other hand would prefer to go down to wreck and ruin

rather than to agree absolutely to submit to the decision of that principle by a disinterested party. They prefer to have their business ruined at once rather than submit to the acceptance of that principle.

Mr. ADAMSON. Do you not think if each party was going to select its own arbitrator it would select some one capable of judging its own rights as well as the Commissioner of Labor?

Mr. NEILL. In a case of that kind the third man would give the decision.

Mr. ADAMSON. Yes; but each one on each side could afford a good deal of information as to his line of business.

Mr. NEILL. Yes; but if they have a fixed opinion as to the rights of the controversy and either side feels that it is essential to their business or their organization, they will not submit it to arbitration, and they should not be compelled to do so.

Mr. ADAMSON. If the Government is going to appoint the one and each side concerned appoints another, then—

Mr. NEILL. I understand this bill does not compel either party to accept the decision of the tribunal.

Mr. ADAMSON. I know. If you are going into this thing, why not have something effective?

Mr. NEILL. Because I feel that under the present uncertain condition of public opinion as to what is right and what is not right in some of these disputes it would be most unfortunate to leave it to any individuals to say: "This, in our judgment, is right, and we are going to subject you to our view of it."

Mr. MANN. Would there be any objection if both sides were represented directly on the board of arbitration and the report of the board was required to be, as in jury cases, unanimous?

Mr. NEILL. No; I do not think there would be any objection whatever to that, Mr. Mann.

Mr. TOWNSEND. Would anything ever be accomplished in that?

Mr. NEILL. Yes; something would be accomplished in many cases.

Mr. MANN. Jurors often do agree when they have gone out with opposite views.

Mr. TOWNSEND. But you do not put the two parties to the controversy on the jury.

Mr. NEILL. Not only that, but in many contracts at the present time there is a provision for arbitration, which provides simply that these cases shall be submitted to a board of 6, 3 to be appointed by each side. It makes no provision for the seventh arbitrator. Those boards do settle many controversies. In the anthracite coal region, for example, there is a board of conciliation, as it is called, composed of 3 representatives of the miners, who are officers of the district organizations of the miners, and 3 representatives of the coal operators. They have had before them over 150 grievances. There is a provision that in case of a deadlock they shall apply to Judge Gray, or one of the judges of his circuit, for an umpire; and I believe that out of over 150 cases only about 20 cases have required the services of an umpire.

Mr. ADAMSON. If you had added to those six, three appointed by the Government or representing the Government, it would have been impartial and able, would it not?

Mr. NEILL. Yes; but neither side would be willing to submit to that tribunal certain questions that came up.

Mr. ADAMSON. In civilization all of us have to submit to certain things.

Mr. NEILL. The only place where we are compelled to submit our judgment to the judgment of the courts is in cases where public sentiment is crystallized as to what is right and what is wrong and where some law represents that crystallized sense of the community. In any proposition where the sentiment is as divided as it is now on many phases of the labor problem, and where the view held to-day may not be the view held ten years hence, I think it would be unwise and unfortunate to compel any body of men to submit to any board matters vital to their interests or their success, such as questions often involved in strikes, because you might thereby compel a man to go to jail because his action did not tally with some other man's individual view of what was right. It might have been an individual view impossible ever to have been enacted into law.

Mr. GAINES. This is an effort, as I understand it, to have hereafter Government intervention in matters which have heretofore been considered not fit subjects for Government supervision at all; in other words, the private relations between employer and employee in making their contracts with each other.

Mr. NEILL. As I understand it, there is no desire to interfere in any private relations between employer and employee until those relations result in an intolerable nuisance to the public.

Mr. GAINES. That would be at once the ground and occasion for this intervention?

Mr. NEILL. Exactly.

Mr. GAINES. But, after all, the intervention proposed is intervention by the Federal Government in matters not heretofore deemed proper subjects of governmental supervision.

Mr. NEILL. Unquestionably.

Mr. MANN. Mr. Neill, is there any authority conferred in this bill upon the special board of arbitration which the Bureau of Labor does not now possess, except the one of compulsory attendance of witnesses?

Mr. NEILL. The Bureau of Labor at the present time has no power to compel anyone to give information.

Mr. MANN. I say, excepting the compulsory attendance of witnesses?

Mr. NEILL. Of course that is the whole meat of the bill. It is simply the difference, I say—

Mr. MANN. I want to know if there is anything in this bill which would extend the authority your Bureau now has except the compulsory attendance of witnesses?

Mr. NEILL. No.

Mr. MANN. For instance, under the organic act establishing your Bureau the Commissioner of Labor—

is specially charged to investigate the causes of, and facts relating to, all controversies and disputes between employers and employees, as they may occur, and which may tend to interfere with the welfare of the people of the different States, and report thereon to Congress.

Now, is the authority in this bill any broader than that as to the scope of the investigation? It can not be any broader than that act.

Mr. NEILL. None whatever.

Mr. MANN. The only distinction in this bill is that it makes a

board of arbitration instead of the Commissioner of Labor; and second, it authorizes the compulsory attendance of witnesses. Now, for instance, the House yesterday passed a Senate bill, I think, for the investigation by the Department of Commerce and Labor—very likely to be carried on by your Bureau or the Census Bureau—of the industrial conditions of women and children. Nothing is said in that bill about the compulsory attendance of witnesses.

It was disclaimed on the floor of the House that it carried any such authority. Under this bill that we have now could you make an investigation of the industrial conditions of women and children in the case of a strike, say in one of the southern cotton mills, and have compulsory attendance of witnesses?

Mr. NEILL. Do you mean under this bill now?

Mr. MANN. Under this bill pending here now.

Mr. NEILL. I do not understand that the Commissioner of Labor would have any power whatever under this bill that he has not at present.

Mr. MANN. I do not mean the Commissioner of Labor. I mean the board. Would not this pending bill here now confer on the board of arbitration practically the same jurisdiction in case of a strike and give them the authority to compel the attendance of witnesses, and thereby force a man running a cotton mill—say, for instance, who does not wish to give voluntary information—force him to give him the information asked for?

Mr. NEILL. As I understand this bill and its purpose, Mr. Mann, it would not give that commission power to go into any mill in any small dispute, or in fact in any case until the strike reached such proportions as to become a serious menace to interstate commerce, or as to bring about serious conditions affecting the people of more than a single State.

Mr. MANN. You understand that the bill itself does that; but I understand you to say that the bill itself provides for any dispute between an individual and an employee, leaving, of course, the exercise of the power to the administration for a proper reason.

Mr. NEILL. My recollection is that the bill contains some clause stating that it should not be used unless there was serious interference with interstate commerce.

Mr. MANN. I do not think that is in the bill.

Mr. NEILL. If it is not, I agree with you that it certainly ought to be there.

Mr. TOWNSEND. This is the clause which has been quoted so many times [reads]:

That whenever within any State or States, Territory or Territories of the United States a controversy concerning wages, hours of labor, or conditions of employment shall arise between an employer being an individual, partnership, association, corporation, or other combination, and the employees, or association, or combination of employees of such employer, by reason of which controversy the transportation of the United States mails, the operations, civil or military, of the Government of the United States, or the free and regular movement of commerce among the several States and with foreign nations is in the judgment of the President interrupted or directly affected, or threatened with being so interrupted or directly affected, the President shall in his discretion inquire into the same and investigate the causes thereof.

Mr. NEILL. What number is it, Mr. Mann?

Mr. TOWNSEND. H. R. 10840.

Mr. ADAMSON. A cotton factory in Massachusetts, for example, is just as "constitutional" and just as tender as a cotton factory in the South when you trample on its toes. When goods are manufactured in a State and those goods are shipped out of that State, a strike in the factory might interrupt interstate commerce. I want to inquire if a factory incorporated or chartered under the State of Massachusetts, under the laws of Massachusetts, had a strike, no matter how serious, that interrupted the operation of the factory and the shipping of goods abroad, whether the President would go into that State and have a Federal investigation?

Mr. NEILL. As I have said all the way along, I think this power should be exercised very sparingly.

Mr. ADAMSON. I will take out the word "sparingly." I will make it the biggest factory in the United States. I will make it a dozen factories, if you will.

Mr. NEILL. I am frank to say that there should be an investigation of that, in my judgment. If there is any business organization in the United States, no matter whether it is within the confines of a single city or not, which builds up such a large business that I, living in another State, depend upon that organization for my commodity, and that factory gets into a controversy with its employees, I think I have the right to have somebody go in there and see if I am deprived of the commodity, which I am dependent upon, without just or sufficient cause.

Mr. ADAMSON. My information is that the largest single tobacco factory in the United States is located in Georgia.

Mr. MANN. All big things are in the South, you know.

Mr. ADAMSON. No; if that were in Illinois it would be just about the same. They ship that tobacco out of the State. You say if there is a strike there and the commerce is interrupted that ought to be investigated?

Mr. NEILL. No, sir. I did not say that. I said that whenever any employer or producer developed his business to such a point that a large part of the public are dependent upon him, no matter what he is called, legally he becomes a quasi-public purveyor. You can not get around it. You may call him any legal name you want, but if any large part of the community becomes dependent upon a single producer, then they have the right to say that they shall not be incommoded by an unreasonable controversy between him and his employees.

Mr. MANN. He uses the word "community." You should make a distinction between community and Government as between the National and State Governments.

Mr. NEILL. I think my own position there is very clear, Mr. Mann. As I said a moment ago, we can get around it legally any way we want to, but in the modern development of industry when a man develops his business to such a point that I am solely dependent upon him and have to get my product from him or suffer deprivation in consequence if I can not get it from him, then I think outside communities have a warrant for interference, and the only interference we can get is through the National Government.

Mr. MANN. Take, for instance, a controversy or emulation or rivalry—I do not now think of a better term—between New England and the South as to the manufacture of cotton. Some Massachusetts

men think they will be driven out of the cotton manufacturing business. It is dependent somewhat upon the hours of labor and the class of labor. Do you think that Congress has the power in the case of a strike between the employees of a cotton mill in Massachusetts and the employers there to investigate the conditions of cotton manufacture in Georgia and all through the South, and make a recommendation as to legislation by Congress or otherwise, and compel people all over the country to come before them and reveal the details of their private business?

Mr. NEILL. Unquestionably not.

Mr. MANN. This bill purports to do that. Here is a strike between a cotton mill and its employees in Massachusetts. The determination as to the rights in that case may depend entirely upon the relation between the cotton-mill owners and their employees in Texas—their rivals in business.

Mr. NEILL. I can not see that the commission would have the right to go outside of the people immediately concerned in the controversy, and who had brought about the conditions which had been described as intolerable. Now, in order not to be misunderstood—

Mr. MANN. For instance, here is a strike between the producers of anthracite coal; the mine operators and their men. Do you think the board of arbitration would have any jurisdiction to inquire as to the conditions in the soft-coal regions?

Mr. NEILL. They might have the right to make such an inquiry there as could be made voluntarily.

Mr. MANN. I do not see anything in the bill that would give the compulsory right.

Mr. NEILL. If it is not in there, it should be.

Mr. TOWNSEND. You think it should be made compulsory on the people in actual controversy?

Mr. NEILL. Yes. As to the statement I made a moment ago, I realize that it was taking a very advanced stand, and I do not wish to be misunderstood upon it; I wish to be made perfectly clear. As I said a moment ago, if there is a strike and the supply, or a part of the supply, of any commodity is cut off, and I have any other resource and can secure that commodity from other producers, my first duty would be to turn there and secure it; and even if the price went up it would not on this account warrant the Federal Government in interfering. But if the situation should bring about a condition of absolute hardship, it would warrant the Government in interfering. I am as much averse as anybody to the Government's going in to settle any controversy that could be settled without its interference. But there ought to be no chance that this commission should interfere with or make inquiry into anybody's business who had not been a party to the creation of the intolerable conditions under which the public might be suffering.

Mr. KENNEDY. Do you think there would be any danger of our electing a President who would abuse the power to inquire into these big things by inquiring into little trivial affairs?

Mr. NEILL. No, sir; I have sufficient confidence in the public to believe that they are not going to elect that kind of a President.

Mr. MANN. I think that is a violent presumption.

Mr. KENNEDY. You are familiar with labor difficulties?

Mr. NEILL. I may be an optimist, Mr. Mann.

Mr. KENNEDY. You have had a great deal of experience with labor troubles. Are you able to state to the committee in how many cases the public sentiment has substantially been the judge that has settled those cases? I live in what seems to be a center of difficulties of that kind, and nearly every one of them that I have any knowledge of has been finally settled when the general public got to know the merits of the controversy.

Mr. NEILL. I can cite even better testimony than my own judgment of that matter. During the anthracite coal strike Mr. Mitchell stated that no organization could stand for one moment in the face of a well-informed public sentiment opposing either a particular strike or the methods of their organization. The only difficulty at present is that each side sometimes goes on—I do not wish this to be understood as being the common practice, but in large strikes it is entirely possible and does occur—but both sides resort to practices which aggravate the situation immeasurably, and which they would not resort to if they knew the actual facts were all to be brought out. Each side makes special pleas to the public to justify its acts, and hides its own practices.

Mr. KENNEDY. The stories of the walking delegate on the one hand and the employers on the other differ as far as night differs from day as to the merits of a controversy, as they give them out?

Mr. NEILL. Yes; and usually they are both partially wrong.

Mr. RICHARDSON. I want to point out the difference between this bill and the power and privileges that are given to the Department of Commerce and Labor under the publicity clause of the act creating that Department. Has not Commissioner Garfield, under the publicity clause of the act creating the Department of Commerce and Labor, the authority to direct you and to suggest men to go with you to make every inquiry into strikes and contests about wages and thus create that public opinion which you rely upon so much?

Mr. NEILL. As I understand it, the Commissioner of Corporations can not direct the Commissioner of Labor to do anything. The President could direct him, but even he can not direct him to make bricks without straw.

Mr. MANN. It is provided in the organic act.

Mr. NEILL. The organic act provides that he shall make any reports which the President may direct him to make.

Mr. RICHARDSON. The President has unquestionable authority under the act creating the Department of Commerce and Labor to ascertain, by inquiries to be made, certain facts, and when those facts are reported to him he can either refuse to or publish what part of the facts so submitted to him as he pleases. Now, is not that authority expressly given in that act to the Commissioner of Corporations, Mr. Garfield? If he is required to make an investigation of a labor controversy arising on any grounds he would not make an investigation of a labor controversy over your head without asking you to assist in it? You are not advocating anything that is compulsory. You simply want to have a verdict rendered by six or seven men that will stop right there and merely create that very public opinion which you maintain will result in acquiescence on both sides. Why not have three or four men associated with you under this act creating the Department of Commerce and Labor if the same good results would come as you claim would come under

this bill? Why create different forums of inquiry when you have now ample law for that purpose.

Mr. NEILL. Because the only thing we could do under the act creating our Department is to ask people to tell their story and publish it.

Mr. ADAMSON. Could you not find out all that this commission could find out?

Mr. NEILL. Up to this time I have advised against, and will advise against, the conferring of any inquisitorial powers upon the Commissioner of Labor. This bill which Mr. Mann speaks of provides that the same power shall be given as is given to the Director of the Census.

Mr. ADAMSON. It might be distasteful to you, but if you had the power to get the information, could you not get the same information that the board of arbitration could get?

Mr. TOWNSEND. He is endeavoring—

Mr. ADAMSON. You have not answered my question yet.

Mr. TOWNSEND. He is endeavoring to answer it.

Mr. KENNEDY. If the power was given, he would have it. That is what that sort of a question leads to.

Mr. ADAMSON. The question is, Why could you not get the same information that the commission could get if you had the same power?

Mr. SHERMAN. If you had the same power conferred upon you that the commission would have conferred upon it, you could obtain the same information that the commission could?

Mr. NEILL. Certainly; unquestionably, if you ask whether it could be done.

Mr. ADAMSON. I ask you. If we increase your powers so that you could force witnesses to disgorge, then could you not learn just as much as the commission could?

Mr. NEILL. I think we could.

Mr. GAINES. But, Mr. Neill, have you not insisted right along that after you had rendered one opinion—made one statement as to the merits of a controversy incidentally upon one side or the other—they would be afterwards less willing to have you make an investigation?

Mr. RYAN. It would be permanent, like any Bureau of the Government.

Mr. NEILL. Certainly.

Mr. TOWNSEND. I would like to have you say why you do not think that would be a wise thing.

Mr. NEILL. In the first place, going back to the suggestion I made a moment ago, in the present unsettled state as to the right and wrong of propositions involved in these disputes, I do not think it would be wise for any single man to be allowed to give his unbiased opinion and have the weight of the Government behind it. In the next place, after he had made his report, taking, for example, some question of fundamental importance to the organization of workmen or the employers, and reported upon it once, if another strike occurred and he was called upon to report again, they would not only put obstructions in his way, but an effort would be made by them to get rid of that official as an investigator. I think that would be fatal to the work of the Bureau. In the third place, I do not believe, Mr. Gaines, that the opinion of any single individual, no matter what

governmental position he holds, would be equal to the opinion of a commission composed, as this would probably be, of men of unquestioned high standing in the community.

Mr. RYAN. Both of employers and employees?

Mr. NEILL. Yes. Take for example, the case of the Anthracite Coal Strike Commission. Most of these were men whom you could not have in a governmental position such as we are discussing. Together they had a standing in the community far above that of any bureau chief in the United States, and their opinion carried weight because of the high standing of the men. This is illustrated also in the Texas Pacific dispute which recently occurred. One of the arbitrators is the president of a railroad himself, one of the most important men in his section of the country. And I think in a strike involving vital matters on this commission you could secure some of the most representative men in the United States—men of such standing and of such position that their opinion would carry more weight than any Government official.

Mr. RICHARDSON. Don't you think, on account of the growing interests of labor and their magnitude and the frequency of these mighty strikes, that there is a demand on account of its importance that the authority of the Bureau of Labor should be increased and should be made a department, with a head who shall be an executive officer in the Cabinet of the President?

Mr. NEILL. That is a question to which I have not given enough thought to make suggestions on.

Mr. RICHARDSON. It is a great question in the country. The President frequently calls upon leading labor leaders to come and confer with him. Would it not be much better and more convenient for him to have somebody in his Cabinet with whom he could advise on such matters?

Mr. MANN. Mr. Richardson is defending the position he took when the Department of Commerce and Labor was created.

Mr. NEILL. I think much could be said in behalf of that proposition.

Mr. RICHARDSON. It is true I did stand for the creation of a Department of Labor with a Secretary in the Cabinet of the President. The Democrats were all for it and the Republicans were against it. Subsequent events have convinced me of the correctness of my position at that time.

Mr. MANN. That can go into the record as being contradicted.

Mr. ADAMSON. If you will refer to the able reply I made on the floor of the House to Judge Richardson you will find that we have already secured a Department of Commerce. [Laughter.]

Mr. GAINES. In your answer to the question by Mr. Adamson, would you not also include, Mr. Neill, as one of the very important advantages of the commission over a Commissioner of Labor, for the purposes of the bill, this—that the necessity of raising a special commission in a case to be investigated would tend to promote the infrequency of the exercise of the power?

Mr. NEILL. Undoubtedly it would have that effect, and it would be a desirable effect. I think if the Commissioner of Labor were authorized to make these investigations they would be made three times as frequently as they would be if made by the commission.

Mr. GAINES. I think I would want to give this power, if to anybody, to a special commission.

Mr. KENNEDY. The commission would carry more weight, would it not, than the report of the Commissioner of Labor?

Mr. NEILL. Undoubtedly. I have repeated that very emphatically.

Mr. KENNEDY. The report of the Commissioner of Labor would be attacked by interested parties, saying, perhaps, he had decided in favor of the party that he thought had the most influence to sustain him in his place as Commissioner, whereas the commission would be absolutely free from such implication?

Mr. NEILL. Yes. I feel myself that there is really no room for discussion on the merits of the two propositions, as to whether the commission or a bureau chief should do it.

Mr. ADAMSON. All young lawyers recognize the right to cuss the court, and people generally imitate them, and in any position that a man gets into he can raise the same objection.

Mr. NEILL. But there is always a presumption in favor of the integrity and intelligence of the court.

Mr. MANN. That presumption is true with reference to the Commissioner of Labor.

Mr. NEILL. No; unfortunately I do not think it is. I do not think a commission would have been attacked as the Commissioner of Labor was attacked last year for a report on conditions in connection with the beef-packing industry in Chicago.

Mr. MANN. The official often thinks, because somebody does not agree with him, that he has been awfully abused after abusing somebody else.

Mr. NEILL. No. There is a presumption always in favor of the intelligence and honesty of the court, and the public rather resents a criticism of the court. In so far as an executive officer is concerned, I think the presumption is frequently a little the other way.

Mr. TOWNSEND. In the matter of a court, its business is to interpret the acts of Congress—the business of a Federal court?

Mr. NEILL. Undoubtedly—

Mr. TOWNSEND. On rules already laid down; and the success of this commission would depend upon its fairness, apparently, to the public.

Mr. ADAMSON. The experience you referred to, Mr. Commissioner, might be called a case where "blessed are ye when men shall revile you and persecute you, and say all manner of evil against you falsely," and "then shall the Lord say, 'Friend, come up higher, we will give you a better job.'"

Mr. NEILL. I am looking for my reward hereafter. [Laughter.]

Mr. STEVENS. I understand there are three statutes now in existence which cover somewhat the same field: First, the conciliation statute of 1898, which you recently acted under; second, the statute creating the Bureau or Department of Labor, which you work under, and third, the statute creating the Bureau of Corporations. These statutes confer about the same authority as is conferred in this act, except, first, the power to create a board, and second, the power to administer oaths and to compel compulsory testimony of individuals engaged in interstate commerce. I understand that the Bureau of Corporations has authority to investigate corporations, and you have authority to investigate individuals?

Mr. TOWNSEND. Outside of railroads.

Mr. STEVENS. Yes; outside of railroads, and the chairman of the Interstate Commerce Commission and the Commissioner of Labor under the conciliation act have the authority to investigate transportation companies. This act gives authority to administer oaths and compel compulsory attendance of witnesses engaged in interstate commerce outside of the transportation business?

Mr. NEILL. Yes.

Mr. TOWNSEND. The law of 1898, which may call into existence or into use the chairman of the Interstate Commerce Commission and the Commissioner of Labor, does not give you and the Interstate Commerce Commission the right at first under that law to proceed with all these investigations of your own motion?

Mr. NEILL. Oh, no. The law of 1898 only provides that the chairman of the Interstate Commerce Commission and the Commissioner of Labor shall simply act as mediators when requested by either side, and if arbitration is resorted to at all the arbitrators are selected by the two parties to the controversy, and then they do have the power to administer oaths and compel attendance. But the vital difference is that that body has no power to initiate investigations. The principal merit of this bill, in my judgment, is the power of initiative, without waiting for anybody's invitation.

Mr. STEVENS. First, the power of the initiative; second, the power to bring in individuals and corporations and investigate their affairs in a compulsory manner by means of the creation of a board; and next, the controversy concerning governmental functions, which does not now exist under any statute.

Mr. NEILL. As I said, Mr. Stevens, I speak with reluctance of any legal question, not being a lawyer; but I do not understand that the Bureau of Corporations at the time of its creation had any such thing as this in contemplation.

Mr. MANN. Such a thing as what?

Mr. NEILL. The investigation of a strike. I do not understand that the Bureau of Corporations or anybody else has any such power as the power to investigate the labor side of a strike.

Mr. STEVENS. The Bureau of Corporations can investigate the affairs of a corporation.

Mr. NEILL. It would be a very simple matter for those concerned in the affairs of a company or corporation to turn the management of a strike over to an individual to act for them. I do not think it will be possible for the Commissioner of Corporations to get behind that if it were tried.

Mr. MANN. Why?

Mr. NEILL. It would be no longer a question with a corporation, but a question with an individual.

Mr. MANN. Don't you think the Interstate Commerce Commission, when investigating the subject of railroad rates, for instance, could call anybody before it and put them under oath?

Mr. NEILL. I think they could if it is germane to the issue or question of railroad rates.

Mr. MANN. They are not confined to a corporation. They can call any individual before them. Of course as to the authority to investigate they depend upon whether it was germane or not. The questions put to the witnesses would have to be germane to the ques-

tion concerning the corporation, but would not a strike be germane to the subject of the investigation of a corporation?

Mr. NEILL. I can conceive of many important cases in which I do not think it would be, Mr. Mann.

Mr. RUSSELL. A man might be guilty of a subterfuge in order to evade the investigation itself.

Mr. NEILL. Yes. There is a tendency now for employers to form organizations similar to those of labor organizations, and when a strike is on the management of the strike on the part of the corporation may be turned over to an officer of this organization or an agent. This organization will contribute to the losses incurred by the employers, if losses are incurred, and the matter is then placed in the hands of a representative of a national corporation organization, not in the hands of the employer directly, and in the hands of a representative of the labor organizations, and from that time on the matter is in the hands of those two people mentioned.

Mr. MANN. Have you any doubt as to the authority of the Commissioner of Corporations to investigate that subject, including the compulsory attendance of witnesses?

Mr. NEILL. It seems to me, Mr. Mann, it would be very far-fetched to claim that he could go into that.

Mr. MANN. If that be so, this bill would not go any further than that.

Mr. NEILL. I think it would.

Mr. MANN. No; this bill does not contemplate a conflict between individuals. It is between a labor organization on one side and employers on the other side. There is no authority here unless the conflict is between the employer and employee.

Mr. NEILL. If that is not provided in the bill it would be a fatal omission.

Mr. MANN. It is very evident that Congress could not confer upon any commission authority as a national proposition to enter into a dispute between an employers' organization and an employees' organization which did not affect any commodity produced or controlled by anybody.

Mr. NEILL. I am speaking of conditions where the actual strike occurs, where the interference occurs. The plant may be tied up completely, but the proprietors of this plant withdraw from the controversy, and the controversy is then carried on between representatives of the associations on both sides.

Mr. TOWNSEND. Still affecting interstate commerce?

Mr. NEILL. Yes.

Mr. MANN. Then, under the law they can inquire into it as affecting the output of a corporation. If it does not affect the output of a corporation, then we have no jurisdiction to inquire into it for any purpose. Just as far as Congress can confer authority the authority is already conferred on the Bureau of Corporations.

Mr. NEILL. In that case the Bureau of Corporations would go to a certain point in the investigation and there find itself at a standstill.

Mr. MANN. If we have the constitutional jurisdiction, it can go all the way through.

Mr. STEVENS. I am of the same opinion with Mr. Mann—that the Bureau of Corporations has authority to investigate the work of corporations engaged in interstate commerce which may involve the

operations of a strike, but it has no authority to investigate individuals or partnerships. You have authority to investigate individuals and partnerships under the Bureau of Labor, but you have no power, we understand, to summon witnesses and have compulsory attendance, and so forth. I think that is the essence of this bill.

Mr. NEILL. Undoubtedly.

Mr. STEVENS. That is a question for the committee to determine—that particular thing?

Mr. NEILL. Yes. If one party is investigating one end of it, and another party another end of it, the power should be lodged in the same party. If the power is now lodged in the Bureau of Corporations, they ought to be allowed to go still further.

Mr. STEVENS. What I was trying to get at was how they could get further authority.

Mr. SHERMAN. Gentlemen, the hour for adjournment has arrived. We stand recessed until 10.30 o'clock to-morrow morning.

Mr. GAINES. Mr. Neill, could you file with your statement the several statutes that have been referred to similar in nature to this pending bill?

Mr. NEILL. Yes.

(Thereupon a recess was taken until 10.30 o'clock to-morrow morning, January 23, 1907.)





HEARINGS

BEFORE

THE COMMITTEE ON INTERSTATE AND
FOREIGN COMMERCE

OF THE HOUSE OF REPRESENTATIVES

ON

H. R. 20153, 21572, AND 22133,

ON THE SUBJECT OF

RAILROAD PASSENGER FARES
AND MILEAGE TICKETS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1907.

RAILROAD PASSENGER FARES AND MILAGE TICKETS

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D., C., Tuesday, January 8, 1907.

The committee met this day at 10.35 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. Gentlemen, the special order to-day is the consideration of House bill 20153, the bill providing for the issuance of mileage books by railroads engaged in interstate commerce.

Mr. SHERMAN. Mr. Chairman, I suggest that we ascertain who are here desiring to be heard upon this bill, and upon which side they desire to be heard. I have notified the several passenger associations as to this hearing, as the committee knows, without any authority of the committee, of my own volition, and I have also notified the officers of the several commercial travelers' associations throughout the United States, and I have letters and telegrams from several of them saying they will be here. I think perhaps it would be well to ascertain who are here.

The CHAIRMAN. I think that is a good suggestion. Gentlemen, will you who favor the measure pending give your names to the clerk of the committee now, if you please, so that we can know who want to be heard and arrange for some procedure? Are there any persons here who favor this legislation?

Mr. MANN. Outside of the committee? [Laughter.]

The CHAIRMAN. That is understood. Is there any response?

Mr. BARTLETT. There seems to be an "offing."

The CHAIRMAN. Are there any gentlemen here who are in opposition to the legislation?

Mr. LEWIS E. PAYSON. Mr. Chairman, you will recollect that at the last meeting of the committee, when this matter was put, ex-Senator Faulkner and myself applied for a continuance of the hearing in order that preparations might be made for the proper discussion of the subject. In connection with the suggestion of the gentleman from New York I may say now, in order that the record may show it, that I appear here in opposition to this bill and others of the same character for the so-called Harriman lines, the Union Pacific system and the Southern Pacific system, aggregating about fifteen thousand miles.

Mr. CHARLES J. FAULKNER. There are a number of gentlemen here who are opposed to this bill and are ready to present their views to the Committee. I suppose the clerk can take the names of these gentlemen without my naming them all; in fact I would not be able to state all of them. I know Secretary Herbert is here, representing one of the roads, and the Rock Island is represented, and the Atche-

son, Topeka and Santa Fe is represented, the Denver and Rio Grande, and a number of those roads associated with it are represented. I do not know the others.

Mr. SHERMAN. Senator, are any passenger associations represented?

Mr. FAULKNER. They are represented through these gentlemen.

Mr. SHERMAN. Not as associations?

Mr. FAULKNER. I do not know whether they are represented as associations or not. I know some of them have been requested to speak for those associations. You will find that in the evidence when it is developed.

Mr. HILARY A. HERBERT. Mr. Chairman, I represent the Seaboard Air Line Railway in opposition to the bill.

Mr. FAULKNER. The Southern Railway is also represented here by the General Passenger Agent.

Mr. H. L. BOND, jr. I represent the Baltimore and Ohio.

Mr. SHERMAN. Let each gentleman write his name on a slip of paper, showing the road he represents, and hand it to the stenographer. We can then have it in the record.

Mr. PAYSON. I think each gentleman should announce who he is.

Mr. SHERMAN. The gentleman who represents the Baltimore and Ohio will give the stenographer his name.

Mr. H. L. BOND, jr. My name is H. L. Bond, jr., Second Vice President of the Baltimore and Ohio.

Mr. T. B. HARRISON, jr. I represent the Louisville and Nashville.

Mr. FAULKNER. I will offer two names to start the investigation with, and I think that is concurred in by Judge Payson and Secretary Herbert. First, Mr. Nicholson.

The CHAIRMAN. Is he present?

Mr. FAULKNER. Yes, sir.

The CHAIRMAN. Mr. Nicholson, we will hear you now

STATEMENT OF MR. GEORGE T. NICHOLSON, OF CHICAGO, THIRD VICE-PRESIDENT OF THE SANTE FE SYSTEM LINES.

Mr. NICHOLSON. Mr. Chairman and gentlemen, I represent the Santa Fe Railroad, and I am also on the committee representing the Western Passenger Association and the Southwestern Passenger Bureau.

Mr. RICHARDSON. What position do you hold in the railroad?

Mr. NICHOLSON. I am Third Vice-President of the Sante Fe system.

Mr. RYAN. You can fire away now.

Mr. NICHOLSON. It is my understanding that this hearing is primarily to consider H. R. bill 20153, which legislates for a universal mileage book of 1,000 miles denomination at 2 cents per mile flat, interchangeable between all United States railroads, unlimited as to time, unrestricted as to class of trains, and redeemable "upon presentation at any ticket office of any railroad engaged in interstate commerce at their face value."

Such legislation, however, would have the prompt effect of establishing a maximum rate of 2 cents per mile for trip tickets between all points in the United States, whether State or interstate, even in advance of State legislation, which would be sure to follow as soon as the workings of the universal mileage ticket came to be understood. Such gross discrimination in favor of the citizen who is able to tem-

porarily invest \$20 in his ticket and against the unfortunate citizen who could not do so should not and would not be allowed to continue. Bear in mind that the surplus in \$20 over and above the cost of the immediate trip can be recovered at the journey's end upon presentation of unused coupons to the station agent.

H. R. bill 20153 therefore is just as effective in establishing a maximum rate of 2 cents per mile as is H. R. bill 21572 or H. R. bill 22133; and, with your permission, I will address much of my remarks to the question—"Is 2 cents per mile a fair and living rate for Western railroads?" I say "Western" not because I think such rate to be fair for "Eastern" roads, but because I am empowered to represent those in the West only.

Mr. Chairman, I do not know that you care to have me proceed on that line, of considering the other bills, or not?

The CHAIRMAN. Use your own pleasure about that. We usually consider allied bills when considering a particular bill.

Mr. NICHOLSON. The statement I have prepared is largely in behalf of the roads I represent, the Santa Fe Railroad System, whose lines are located, as I said, in the sparsely settled, arid, and semi-arid regions of the Southwest, though later on I was requested also to represent the railroads generally in the territory represented also by other gentlemen here; so that my remarks now will be largely as to the Santa Fe. But I will say that practically the same condition exists in practically all the railroads in that territory, and any statements that are true as to one are true also as to the others.

I first have a statement here showing the location of the mileage of the roads which compose the Santa Fe System in the different States and Territories through which they run. As a matter of information I will state that these roads in the Santa Fe System run in the States of Illinois, Iowa, Missouri, Kansas, Nebraska, Oklahoma, Indian Territory, Texas, Colorado, New Mexico, Arizona, and California. With the exception of some little mileage in Iowa and Illinois and Missouri, in a total of 8,500 miles, seventy-eight hundred odd miles are located west of the Missouri River, so that it is a far-western proposition mainly.

States and Territories.	Miles.	States and Territories.	Miles.
Illinois.....	290.76	Texas.....	1,483.20
Iowa.....	19.86	Colorado.....	406.85
Missouri.....	298.77	New Mexico.....	836.84
Kansas.....	2,606.02	Arizona.....	408.33
Nebraska.....	2.53	California.....	1,263.46
Oklahoma.....	612.49		
Indian Territory.....	215.61	Total.....	8,444.72

Of which 7,835.33 is west of Missouri River.

Before presenting the facts and figures which to us seem conclusive evidence that the reduction of fares proposed by H. R. 20153, and other bills, can not in justice be made, we wish to say a few words on some aspects of the passenger-fare question, which we believe have been misunderstood or whose importance has not fully been appreciated.

It is often argued that because a two-cent fare exists on a few of the great trunk lines that railroads generally should not be allowed to charge a higher fare.

This, to us, seems neither a valid nor a sufficient reason for taking away from the railroads of the Southwest a large part of their earnings from interstate business. The wide diversity of circumstances and conditions that prevails east and west of the Mississippi River is overlooked. This argument takes no account of the fact that in the communities that have a two-cent fare the local population is several times larger and the through travel many-fold greater than in the Southwest.

A rate that will not only cover expenses, but leave a fair margin of profit on the main line of the New York, New Haven and Hartford, the Pennsylvania, the New York Central and its connections, the Lake Shore and Michigan Central, would reduce the railroads of the West to less than the cost of service. These eastern railroads are the great highways of the continent. Over these roads run the great tide of through travel and a vast volume of mail and express.

Where passenger business is light, as it is in the West, it can not be handled with profit at as low rates. A light traffic means few trains with but few people in them. With a large traffic only is a low fare possible. This is true because with a large volume of business, if competition is not excessive, the number of persons in each train will be comparatively high and there will be many trains. The cost of maintaining and operating the road can thus be divided among many trains, each of which is able to bear its share of the total expense of running the road.

The point I wish to make there, Mr. Chairman, is this: That it is absolutely impossible for any one to establish a fixed rate, whether it be one cent, two cents, three cents, ten cents, or any other figure, per mile. If it is conceded to be fair to the railroads in the thickly-settled portions of the United States, the same rate can not and will not be fair under any circumstances to the roads serving the sparsely-settled regions. There is no such thing as fixing a uniform rate that is fair to all. It will either be unjustly low to a part of the roads, or unjustly high to the roads having the larger volume of business.

This being true, the number of passengers carried per mile of railroad, or as it is commonly called, the density of traffic, is of the greatest importance. It means to a railroad all that a big output signifies to a manufacturing plant. Indeed, it is of much greater significance, for there probably is no other business that has so many fixed expenditures that must be made, regardless of the volume of business transacted as the railroad.

The volume of traffic per mile of railroad will show all differences of density of population per mile of railroad, of location of road with respect to through routes of travel, and all differences in industrial life. Much might be written about the greater density of the population of the Eastern and Middle States, and of their greater population per mile of railroad, and of their favorable location with respect to through travel, and of the fact that the people of manufacturing and trading communities must necessarily, in the course of business, travel more than the people of the agricultural and grazing States and Territories of the Southwest, but a bare statement of the facts will, I think, suffice.

Are the fares paid in the Southwest relatively as low as those paid in the States of the East? They certainly are if due allowance is made for differences in the volume of travel and for variations in the

number of persons in trains, and a comparison, to be of value, must give proper consideration to these divergences, for it makes all the difference in the world whether there are forty or fifty or seventy-five passengers in a train and whether there are two or four or eight or a dozen or more trains daily.

In order that that may be understood a little more, you gentlemen, of course, know that the standard rates of fares differ in the various States and Territories of the United States. In some of the Eastern States the rate is now as low as 2 cents a mile by State legislation; but generally throughout the East they are not as low as 2 cents a mile. They range between 2 cents, 2½ cents, and 3 cents. On the Western roads in the territory I represent, on the lines west of the Mississippi River, you go as far as the Rocky Mountains on a 3-cent basis, and when you get into territory such as New Mexico and Arizona and part of California and Idaho and Utah you get into the 4-cent rate. It used to be more than 4 cents. Recently heavy reductions have been made by railroads serving that section.

Mr. MANN. Take the cost of a winter ticket from Chicago to Los Angeles now, for example.

Mr. NICHOLSON. It is \$110 a round trip.

Mr. MANN. What is the distance by your road?

Mr. NICHOLSON. 2,265 miles.

Mr. MANN. How much is that per mile?

Mr. NICHOLSON. For that road it is practically 2 cents a mile.

Mr. MANN. Of course, if you do not mean 2,200 miles.

Mr. ESCH. It is double that for the round trip.

Mr. NICHOLSON. That is not the trip they take.

Mr. MANN. You do not mean 2,200 miles for the round trip?

Mr. NICHOLSON. It is 4,500 miles for the round trip.

Mr. MANN. What you receive is 2 cents a mile?

Mr. NICHOLSON. There is not any ticket in the world that covers the diversity of routes that these round-trip tickets cover. You can ride both ways or one way. The mileage does not represent the average mileage given to each purchaser of one of these tickets. A purchaser may go down to Santa Fe and to Los Angeles and then up to San Francisco and come east to Denver and Chicago.

Mr. MANN. What is the distance the longest way he can go on a ticket to cost \$110?

Mr. NICHOLSON. To be accurate, I should have to make some figures, but I should say it would probably be considerably over 5,000 miles. There are other gentlemen here, probably, who can make that calculation more closely than I can.

The CHAIRMAN. Proceed, Mr. Nicholson.

Mr. NICHOLSON. The average number of passengers in the trains of the New York, New Haven and Hartford Railroad during the year 1905 was 76 and the trains were not long, the average number of passenger cars in a train being but 4.28 cars. With so many persons in each train one would of course expect lower fares than on the roads of the Southwest, and especially when the much larger number of trains run by the New Haven is considered.

The great diversity in the density of travel, and in the average passenger train load, and in the number of trains run, and in the passenger train earnings per mile of road of the great railroad systems in the thickly peopled parts of the East and on the Santa Fe lines is

made clear by the following table compiled from the annual reports of the companies for the fiscal year 1905, showing the number of passengers carried one mile per mile of line, the average number of passengers in a train, the average number of passenger trains daily over each mile of line, and the passenger train earnings per mile of line.

Mr. SHERMAN. Is it not a fact that the New York, New Haven and Hartford road is the only road in the country whose passenger earnings amount to more than one-half of their receipts?

Mr. NICHOLSON. I think that is so. First, I will state what the Santa Fe earned, so that you can see how these figures compare. The Santa Fe earned \$23,900 per mile—a little bit less than \$24,000 per mile.

Mr. KENNEDY. With its passenger traffic alone?

Mr. NICHOLSON. Yes; sir. On the New Haven road the earnings were \$11,634. On the New York Central road the earnings were \$9,028.

Mr. MANN. This is per mile of single track?

Mr. NICHOLSON. Yes; sir. The New Haven is given at 2,075.45 miles. The New York Central is 3,471.5 miles.

Mr. MANN. That is based on the supposition of a single-track road?

Mr. KENNEDY. Where is it double track they do not count the distance twice, do they?

Mr. NICHOLSON. It is their mileage earnings. They may have one, or eight, or ten tracks. On the Lake Shore road it is 7,231 miles. On the Pennsylvania it is 6,846 miles.

Mr. Esch. You mean dollars instead of miles?

Mr. NICHOLSON. Yes; dollars, I should say. Yes; I beg your pardon. On the Santa Fe road we have an average of 4.7 passenger trains daily over each mile of line, or a little bit less than five trains daily over each mile of railroad. That would be 2½ miles each way. On the New Haven they have over 20; on the New York Central, 18; on the Lake Shore, nearly 13; on the Pennsylvania, over 16.

System.	Number passengers carried 1 mile per mile of line.	Average number passengers in a train.	Average number passenger trains daily over each mile of line.	Passenger train earnings per mile of line.
New Haven (2,075.45).....	566,450	76	20.2	\$11,634
New York Central (3,471.5).....	421,689	65	18.5	9,028
Lake Shore (1,520.4).....	243,300	53	12.9	7,231
Michigan Central (1,699.6).....	146,697	45	9.2	3,914
Pennsylvania R. R. (3,839.1).....	340,003	58	16.1	6,846
Santa Fe (8,305.4).....	89,520	52	4.7	2,390

Mr. KENNEDY. Can you give the earnings of your road, including freight, per mile?

Mr. NICHOLSON. On the Santa Fe?

Mr. KENNEDY. Yes.

Mr. NICHOLSON. Well, I can compute that for you.

Mr. KENNEDY. You can approximate it, can you not?

Mr. NICHOLSON. Yes, sir. The earnings are approximately \$73,000,000; the mileage is approximately 8,500.

Mr. SHERMAN. Mr. Nicholson, let me ask you this: Is it not a fact, for instance, as to the New Haven road, the New York Central, the

Pennsylvania road, and many others, that by reason of the special commutation rates that they give to a very large percentage of their daily travelers, the average rate charged per mile is considerably below 2 cents?

Mr. NICHOLSON. I can not say but what that is true. I do not know what their average is.

Mr. GEORGE W. BOYD, general passenger agent of the Pennsylvania Railroad. I would like to say for the Pennsylvania Railroad, if you will pardon the intrusion, that our percentage of commutation travel is very small as compared with the whole, and while it reduces the average rate slightly, it is not an important factor in that connection.

Mr. LOVERING. Do you refer, Mr. Nicholson, in your figures to the trackage or mileage?

Mr. NICHOLSON. I refer to the trackage.

Mr. LOVERING. Three thousand four hundred miles of New York Central means trackage?

Mr. NICHOLSON. It is taken from their time cards. From New York to Buffalo they have several tracks. It does not make any difference whether the train runs over one or two tracks, or in any other way.

Mr. LOVERING. Do you say that the New York Central has 3,400 miles of mileage?

Mr. NICHOLSON. Three thousand four hundred and seventy-one miles.

Mr. KENNEDY. That is the mileage you would have to pay to ride over all its lines?

Mr. SHERMAN. Do you include the Lake Shore in that?

Mr. NICHOLSON. No, sir. That is separate.

Mr. SHERMAN. Why don't you include the Lake Shore if you include the Boston and Albany? Do you include the Boston and Albany?

Mr. NICHOLSON. I did not make up any of the statistics. The purpose of these statistics is simply to show that the amount of money we took in per mile of railroad for passenger business was so much less than that taken in in population sections of the country.

Mr. SHERMAN. But you do not make it clear whether or not you are figuring on trackage or mileage.

Mr. RYAN. The New York Central and all its branches, he means.

Mr. WANGER. What is your figure for mileage on the Pennsylvania?

Mr. NICHOLSON. 3,839 miles.

Mr. WANGER. Does that represent single tracks or multiple tracks?

Mr. BOYD. I am passenger agent of the Pennsylvania. That represents the one-way distance, not the actual mileage. It is approximately, as I remember, 12,000 miles. The figure he gives represents the one-way distance. It does not represent the sidings or double-trackage mileage.

Mr. KENNEDY. That includes the Pennsylvania Company?

Mr. BOYD. That means trackage. There may be 5,000 miles of track.

Mr. SHERMAN. What goes to make up that mileage of the New York Central?

Mr. FAIRLAMB. The New York Central proper, the Boston and Albany, the Watertown and Ogdensburg, the West Shore, the Mo-

hawk, the Auburn branch, the Adirondack Division, and what is known as the Fallbrook Division, running down through Williamsport and west through Clearfield, Pa.

Mr. SHERMAN. It does not include the Lake Shore?

Mr. FAIRLAMB. It includes no line west of Buffalo except the line at Niagara Falls and Suspension Bridge.

Mr. RICHARDSON. I understand that two cents per mile would mean bankruptcy in certain sparsely-settled regions, while at the same time it might mean profit in others?

Mr. NICHOLSON. Yes. While it may be fair in the East, that same figure would be unfair in the West; yes.

Mr. RICHARDSON. The application of a two-cent rate to roads situated under different conditions would be very unfair, and that would apply to the railroads of the far Western States as well as of those of the Southern States?

Mr. NICHOLSON. Yes.

Mr. CUSHMAN. The original construction cost the railroads in the Rocky Mountain region, and also the cost of operation is very much greater than in the East?

Mr. NICHOLSON. I am not an operation or a construction man, but I suppose that railroads constructed now are probably more expensive than those constructed at any other time in the history of the country. The Western roads are constructing roads now, and the people want them to construct more roads all the time. The present is the most expensive period of construction. I could not answer that question whether it is more expensive in the West than in the East to build railroads.

The CHAIRMAN. It would be wise procedure, perhaps, to let this gentleman get through with his remarks. If we keep constantly interrupting and diverting him from the line of his argument it will prolong the proceedings. If we first let him get through it will be more expeditious. I make that as a general suggestion, not referring to anybody particularly.

Mr. RICHARDSON. That may refer to me.

Mr. SHERMAN. And to me [laughter].

Mr. NICHOLSON. The figures of this table show that the fares prevailing in the West are less profitable than those prevailing in the East when all essential facts are considered. It must be remembered that 2-cent fares exist on only a very small part of the mileage of the great systems of the East; the average is much nearer 3 than 2 cents per mile. Also that great reductions have only recently been voluntarily made in the fares of Colorado, Arizona, California and other far Western territory, not because of any public demand, but because the railroads themselves recognized that the increased population and travel warranted the reduction. Similar voluntary action has been taken by them at various opportune times in the past, as witness the reduction in New Mexico and Arizona from 10 to 8, from 8 to 6, from 6 to 5, and from 5 to 4 cents per mile during the past twenty years.

We were charging 10 cents per mile when I first went out there. We reduced it without legislation from 10 cents to 8 cents, and from 8 cents to 6 cents, and from 6 cents to 5 cents, just as the traffic would permit us to reduce the fare; and we take the position that we are in constant touch with the Western situation, and just as soon

as we can afford to make reductions from the present rate we will do it voluntarily—for the selfish purpose of making more money. But we do not believe that the time has yet come when we can afford, voluntarily or otherwise, to establish as low a rate as 2 cents a mile.

Here is a little table showing the population and railway mileage. New York has 937 population for each mile of railway. Massachusetts has 1,414; Pennsylvania has 611; New Jersey has 884; Connecticut 954. These are large figures. Now, getting down to the territory of the road which I represent, sirs, taking them in the order from east to west, Illinois has 443, Iowa 242, Missouri 430, Kansas 178, Nebraska 196, Colorado 116, Indian Territory 165, Oklahoma Territory 163, Texas 275, New Mexico 84, Arizona 75, California 253. That is all that we have to draw on. If we hauled free all the people we could haul, that is all we would have to draw from. You can not make business unless there is a demand for it.

Population and Railway Mileage.

State or Territory.	Number of people to each mile of railway.	State or Territory.	Number of people to each mile of railway.
Illinois.....	443	New Mexico.....	84
Iowa.....	242	Arizona.....	75
Missouri.....	430	California.....	253
Kansas.....	178	Connecticut.....	954
Nebraska.....	196	Massachusetts.....	1,414
Colorado.....	116	New York.....	937
Indian Territory.....	165	New Jersey.....	884
Oklahoma Territory.....	163	Pennsylvania.....	611
Texas.....	275	United States.....	379

MR. MANN. When you say you have nobody to draw on for the traffic except people living in New Mexico and Arizona it sounds almost as though you intended it for a joke.

MR. NICHOLSON. What else do you have?

MR. MANN. We have a great many people from Chicago who go there.

MR. NICHOLSON. That is Illinois.

MR. MANN. You have a great many people from New York.

MR. SHERMAN. You have a great many people who travel from New York and Massachusetts and Connecticut?

MR. NICHOLSON. Yes, sir; but it is a very small part of the passenger earnings. In every Western road it is a small portion.

MR. JOHN SEBASTIAN, traffic manager of the Rock Island road. Fifteen per cent.

MR. NICHOLSON. Yes; that would be a large percentage. It is in the smoking cars and chair cars that you get your money, and you have got to get that on the local traffic. On the subject of free transportation it is sometimes said that if the railways would cut off all free transportation, they could well afford to carry passengers for 2 cents a mile. This is wide of the truth. The effect on earnings that would follow the discontinuance of passes other than for railway employees is greatly overestimated. First, because the amount of complimentary transportation is not so large as is generally supposed; and, second, because if all complimentary passes were withheld very

few of the persons who now get them would travel as freely. On the Santa Fe the total use of all free passes other than for railway employees amounts to but $2\frac{1}{2}$ per cent. of the volume of travel. This is entirely too small to be fairly considered a substantial offset to the reduction proposed in the bills now under consideration. I estimate a rate of 2 cents a mile would reduce the earnings of the Santa Fe system 25 per cent.

There would be no gain in stopping the practice of issuing exchange passes, for what a railroad would gain on one hand it would lose on the other. Payments in cash would take the place of payments in kind. What a railroad would receive from the officials of the other roads would be offset by what its officials would pay on other roads.

The bulk of free transportation is issued to railway employees and the members of their families. On the Santa Fe system this travel is about $12\frac{1}{2}$ per cent of the total.

On the Santa Fe I had some statistics made for one month. We do not keep this class of statistics all the year around, but I had them made for the month of June, 1906, and on the Santa Fe the total issuance of passes amounts to $2\frac{1}{2}$ per cent of the volume of traffic.

I have here also a statement which has just been issued by the Texas State commission on that subject. Under date of July 15, 1904, they called upon all the Texas railroads to give them the statistics upon which they could base this general statement. They first called for the Statement No. 1, showing the free transportation to officials, agents, and employees of other railroads, including express and telegraph companies and steamship lines; second, to employees and members of their families of the company making the report—those classes coming under the term “employees;” third, transportation on account of newspaper advertising; fourth, to public officials, clerks, etc., United States, State, county, and municipal governments; fifth, to other persons, charities, religious, personal, etc.

They issued a report for the fiscal year ending June 30, 1905, covering all lines in the State of Texas. I have not the official document here, but these were telegraphed figures sent me from advance copies of that report. Without reading you the mileage, because the figures are large and confusing, I will state that they show that of the total passenger traffic of the State of Texas, that is, one passenger one mile, 13.5 per cent was deadhead or free. Of that, 2.66 per cent came under the first class, that is, exchange of transportation for railway officials, and agents and employees of connecting railroads, including express company employees; the second, which was employees and members of families of the company making the report and their officers, was 7.42 per cent; the third, the newspaper advertising, was 1.11 per cent; the fourth, public officials, ninety-five one-hundredths of 1 per cent; fifth, all other persons, charities, and so on, 1.38 per cent.

Report of Railroad Commission of Texas of deadhead mileage.

Copy.]

GALVESTON, January 2, 1907.

Mr. W. J. BLACK,

Care Atchison, Topeka and Santa Fe Ry., Chicago, Ill.

DEAR SIR: Your wire 1st with reference to statement issued by the railroad commission of Texas on the question of free transportation. Under date of July 15, 1904, the commission issued an order requiring all roads to open and keep a record showing for

each month the number of free passes issued to persons good over the whole or a portion of such railroad, the entries on such books to show the information classified as follows:

1. In exchange: Transportation to officials, agents, and employees of other roads, including express and telegraph companies and steamship lines.
2. To employees and members of their families of the company making report.
3. Account newspaper advertising.
4. To public officials, clerks, etc., United States, State, county, and municipal governments.
5. To other persons, charity, religious, personal, etc.

These five items are subdivided into three classes: Annual, time, and trip passes. The following are the figures of the several classes for the fiscal year ending June 30, 1905, for all lines in Texas:

	Miles.
1.....	19, 665, 911
2.....	54, 919, 353
3.....	8, 234, 864
4.....	7, 049, 563
5.....	10, 170, 516
Total.....	100, 047, 989

These figures, as compared with the total number of miles traveled, both revenue and deadhead, show the following percentages:

	per cent.
1.....	2. 66
2.....	7. 42
3.....	1. 11
4.....	. 95
5.....	1. 38
Total.....	13. 52

From the foregoing you will note that your information, that of the 13 per cent of the entire passenger travel all but a fraction of over 2 per cent consisted of railway employees, is somewhat in error, as all other classes show a total of 6.10 per cent, while employees carry 7.42 per cent. As soon as we can get the report of the commission for the fiscal year ending June 30, 1906, I will give you the figures for the last year, unless these figures will answer your purpose.

Yours, truly,

W. S. KEENAN.

So, I will say in my argument here, if you cut off this complimentary transportation of others but railway employees and advertising in the State of Texas it would be $2\frac{1}{2}$ per cent. My estimate, made prior to the receipt of that report, from our own figures, was $2\frac{1}{2}$ per cent, so, you will see, there is a very good check there.

On the Sante Fe, as I said before, the total issue of all free passes other than to railway employees and officials amounts to two and one-half per cent of the volume of travel. This is entirely too small to cut much figure in offsetting a material reduction in the total amount of passenger earnings. At the proper time I can state how I arrive at these figures. As I said, there would be no gain in the practice of exchanging passes—in the abolition of the practice of exchanging passes—for what they gained on one hand they would lose on the other. What the railroad would receive from officials of other roads would be offset by what its officials pay on those other roads. The bulk of free transportation is issued to the railway employees and members of their families. On the Sante Fe System that free travel is twelve and one-half per cent of our total.

Because the passenger business has largely increased during the last few years some people are now calling for a reduction of passenger fares. These people give little consideration to the other side of the account. The increased earnings have not been gained without

greater increase of expenditures. We have had to run more and better and faster trains, and all the accessories of train and station service have been improved. The comfort of the traveler has been promoted by the erection of many first-class station buildings, hotels, and eating houses. Travel is safer and more comfortable, because roadbed has been largely rebuilt and because rolling stock has been greatly improved, and there is now more frequent inspection of track and equipment. Track has been straightened, grades have been removed, heavier rails have been laid, double track has been constructed, stronger bridges have been built, block signals have been erected, and interlocking plants have been installed where separation of grades was impossible; more powerful locomotives have been added in large numbers, stronger coaches with improved air-brakes, automatic couplers, gas and electric lights, and wide vestibules. These improvements involve large initial expenditures and their maintenance is a continued heavy expense.

Wages and material are continually higher and the end has not been reached. Engineers, firemen, conductors, brakemen, flagmen, and other classes of employees have submitted demands which, if granted, will increase the wages of these employees approximately 20 per cent.

I doubt if it is generally appreciated how rapidly the prices of the principal commodities consumed by the railroads have shot skyward. The railroads have been hit hardest by the upward movement of prices. I venture to predict that if the whole list of prices of things used in large quantities should be searched no other increase equaling that of railroad ties would be found. The table which follows, prepared from the company's own records, will convey some idea of what the general increase has been. At first pine ties used to cost us 18 cents; now they cost us 56 cents.

Mr. ESCH. Is that due to the fact that you creosote them?

Mr. NICHOLSON. No, sir; it is the cost of the ties.

Mr. MANN. You mean the cost of the ties free on board?

Mr. NICHOLSON. Yes, sir; you take pine lumber, which anybody can buy and which we have to use in large quantities, it is 10 per cent higher.

Mr. RYAN. Was it unusually low in 1897?

Mr. NICHOLSON. Yes; we invaded a large lumber territory in Texas and Louisiana. Here is a table of comparative prices:

Comparative prices.

Commodity.	1897 prices.	1906 prices.	Increase.
Pine ties:			<i>Per cent.</i>
Sawn.....	\$0. 18	\$0. 56	211
Hewn.....	. 19	. 52	174
Oak ties, hewn.....	. 35	. 65	86
Low-grade yellow pine (per 1,000 feet).....	10. 50	22. 00	110
High-grade yellow-pine lumber.....	17. 75	31. 50	77
Steel rails (per ton).....	18. 00	30. 80	71
Spikes (100 pounds).....	1. 475	2. 00	36
Track bolts (100 pounds).....	2. 20	2. 80	27
Bar iron (100 pounds).....	1. 20	1. 90	58
Coal, Frontenac lump (ton).....	1. 14	1. 70	49
Nails (100 pounds).....	1. 45	2. 00	38
Car wheels (cast iron, 600 pounds).....	6. 00	8. 55	43

Mr. BARTLETT. That is in the past ten years?

Mr. NICHOLSON. That was in the year 1906—this present year—or, rather, the past year, compared with 1897.

Mr. CUSHMAN. Nine years ago.

Mr. STEVENS. Have you made a corresponding increase in the volume of your passenger traffic?

Mr. NICHOLSON. That is under the period of the reconstruction of the Santa Fe.

Mr. STEVENS. I say, have you made a corresponding increase in the volume of your passenger traffic?

Mr. NICHOLSON. For that period?

Mr. STEVENS. Yes.

Mr. NICHOLSON. No, sir; but the volume of passenger traffic shows 100 per cent increase, and our rates are lower than they were. I have some figures showing, or attempting to show, the cost of operating our passenger trains.

The actual absolute respective cost of doing the passenger and freight business can not be ascertained. Expenditures such as maintenance of way and structures, superintendence, wages of officials and employees not specifically assigned to passenger or to freight service—such as switchmen, flagmen, watchmen, trackmen, laborers, etc., which are common and can not be apportioned with exactness, but must be apportioned according to some fair rule. For several years the Santa Fe has, for its own information, made such apportionment of its own expenditures as between passenger and freight. We have followed the rule which was observed by the Interstate Commerce Commission until they found, for some reason, that it was not necessary for them to continue to make those figures up, and they ceased to publish them for some years. So long as they did follow them they had this basis:

1. Total earnings of passenger trains from all sources, i. e., mail, express, etc.
2. Cost of operating passenger trains.
3. So-called net earnings.
4. Taxes.
5. So-called net earnings less taxes.
6. Interest on bonds.
7. So-called net earnings less taxes and interest on bonds.

Taxes and interest are divided between passenger and freight on the basis of train mileage. Mixed trains are divided on the basis of cars in the trains.

For the fiscal year ending June 30, 1906, of our total expenses of operation 52.97 per cent could be located and assigned with certainty either to the freight or to the passenger train service; 35.89 per cent were common expenses and divided on the basis of train, car, and engine mileage, and 11.14 per cent could in part be located and in part could not. These last expenditures were assigned on train-mileage basis.

What we term the Atcheson, Topeka and Santa Fe Railway system up to the end of the fiscal year 1906 did not include several lines largely owned but operated separately. If the statistics of these smaller lines were available and were included the showing of the system would be even poorer.

I give you figures for the fiscal year ending June 30, 1906—the best year from a traffic standpoint we ever enjoyed. I do not want to make this an advertisement of the Santa Fe, gentlemen, but here

is a map, and if any of you do not know where we run, this will assist you, showing you what I am talking about. [Shows map.]

This is the apportionment we have made. The first was the Southern Kansas Railway of Texas. That went down here [indicating on map] to the old Staked Plains and to Pecos, in Texas. On that road the total earnings of passenger trains per mile of track was \$816. In the cost of operating we embrace every item we could locate as being definitely charged to freight or passenger expense, and the interlocked items, general items, my salary and the president's salary, and the switchman's salary, were divided on the basis of the passenger and freight trains, or on the wheelage. Now, we earned \$816 a mile. That is a fixed fact. It cost us \$902 per mile to run those trains.

Mr. PAYSON. What was the cost there, again? Let me have that again, please, in order to put it down.

Mr. NICHOLSON. Nine hundred and two dollars was the cost, and \$816 was the earnings.

Mr. MANN. Are you running a sort of eleemosynary institution down there? [Laughter.]

Mr. STEVENS. What would you say would be the average rate per mile on that line that you just described?

Mr. NICHOLSON. The average rate on that line in the Territory of New Mexico is now 4 cents a mile. For such of it as is located in Texas and in the State of Kansas it is 3 cents a mile.

Mr. BARTLETT. That is an average of $3\frac{1}{2}$ cents all over.

Mr. WANGER. What is the Colorado rate?

Mr. NICHOLSON. It is 3 cents a mile on the line between Denver and Colorado Springs, and between Denver and the East, and in the mountain regions to the West it is, I should say, approximately 4 cents.

Major Hook, of the Rio Grande. The maximum is 5 cents.

Mr. NICHOLSON. On the Gulf, Colorado and Santa Fe, that is from Russell, Ind. T., through Gainesville, Tex., down to Houston and Galveston, a territory with which you gentlemen are conversant, with its branches, our passenger earnings per mile of railroad were \$1,873, and the cost of operating those trains was \$1,803, leaving \$70 net, leaving the reduction of taxes and its share of the interest of the bonded debt on precisely the same basis, and it shows that the Gulf, Colorado and Santa Fe in the most favorable passenger year it ever had lost over \$22 per mile on its business.

Mr. RUSSELL. Do you include in that estimate anything you got to carry the mails?

Mr. NICHOLSON. In these passenger earnings? No, sir. The mail earnings down there—I would not care to say what they are.

Mr. RUSSELL. That is not included?

Mr. NICHOLSON. No, sir.

Mr. MANN. Before you are through will you tell how you divide passenger earnings as distinguished from express and mail earnings on the same train?

Mr. NICHOLSON. These are made up by my statistician. Beg pardon, gentlemen; I was mistaken; the statement covers the earnings of the passenger trains, whatever was on the train.

Mr. STEVENS. That is express and mail, too?

Mr. NICHOLSON. Yes; that takes in the whole thing. On the system, as a whole, that is on the 8,400 miles of railroad, the total

earnings of passenger trains, from all sources—mail, baggage, and express—was \$2,648.58 per mile. The cost of operation on the basis I have described was \$1,930.36, leaving as net so-called earnings, \$718.22, out of which, deducting its share of the taxes, \$113.15, its share of the interest on the company's bonds, \$566.96, there is left as applicable to the sinking fund and for dividend purposes on the common and preferred stock, \$38.11 per mile of railroad.

Southern Kansas Railway of Texas (129.17 miles).

Per mile of line.	Fiscal year 1906.
Total earnings of passenger trains from all sources.....	\$816.58
Cost of operating passenger trains.....	901.97
So-called net earnings.....	a 85.39
Taxes.....	17.77
So-called net earnings, less taxes.....	a 103.16
Interest on bonds.....	193.16
So-called net earnings, less taxes and interest on bonds.....	a 296.32

a Indicates deficit.

Gulf, Colorado and Santa Fe Railway (1,433.86 miles).

Total earnings of passenger trains from all sources.....	\$1,873.13
Cost of operating passenger trains.....	1,803.07
So-called net earnings.....	70.06
Taxes.....	47.17
So-called net earnings, less taxes.....	22.89
Interest on bonds.....	425.14
So-called net earnings, less taxes and interest on bonds.....	a 402.25

a Indicates deficit.

Atchison, Topeka and Santa Fe Railway System (8,433.99 miles).

Total earnings of passenger trains from all sources.....	\$2,648.58
Cost of operating passenger trains.....	1,930.36
So-called net earnings.....	718.22
Taxes.....	113.15
So-called net earnings, less taxes.....	605.07
Interest on bonds.....	566.96
So-called net earnings, less taxes and interest on bonds.....	38.11

Mr. RUSSELL. How do you make up your expenses as charged against the profits?

Mr. NICHOLSON. Every item of expense on the railroad is included. Here are two pages, showing them [indicating foregoing tabular statements].

Mr. RUSSELL. How do you get the proportion chargeable to the passenger traffic as distinguished from the freight traffic?

Mr. NICHOLSON. Every item that is locatable either to the passenger or freight traffic is absolutely charged to that item; most of the expenses of the trains, the train crews, the engine, the men on the engines assigned to the passenger service, the labor, cars, and engines, everything that can be located.

Mr. RUSSELL. In these items is there anything in the way of investment to keep up the track?

Mr. NICHOLSON. Such items as keeping up the track, maintenance, official salaries, and salaries of all masses or classes of employees that are working for both departments, switchmen, and all that sort of

thing, go in the common pot and are divided on the basis of the train mileage between the two. That is, as I say, the basis on which the Interstate Commerce Commission operated.

Mr. BARTLETT. Which is the proportion, 53 or 47, the passenger or freight?

Mr. KENNEDY. You deduct, as I understand, the interest on the floating debt?

Mr. NICHOLSON. I said 53 per cent could be definitely located by their character and assigned to either freight or passenger traffic. The 47 per cent was of this common class, which were distributed over both departments.

Mr. KENNEDY. But in this last deduction of the taxes and the interest on the debt you take all that from this passenger traffic, or do you take it proportionately only?

Mr. NICHOLSON. In the same share with the other expenses when divided.

Mr. RYAN. Divided according to mileage?

Mr. NICHOLSON. Yes, sir.

Mr. KENNEDY. The passenger traffic is largely incidental to the freight business, is it not? Most of your travel is by salesmen out in business along the road, drumming up the business which makes the freight traffic?

Mr. NICHOLSON. No, sir. That is what the commercial travelers tell you, but it does not cut much ice in our business.

Mr. MANN. Of course in your own business it does not make much difference how your bills are divided between passenger and freight traffic, because the bills have to be paid anyway, but is not that division of expense unjust to the passenger business?

Mr. NICHOLSON. I do not think so. I do not know of any fairer business than that.

Mr. MANN. Is not a freight train in its passage over the road more destructive to the roadbed and right of way than a passenger train?

Mr. NICHOLSON. By train mileage, you understand, Mr. Mann, the wheelage goes in, and it is a combination that is worked out by the statistician.

Mr. MANN. I do not understand that the train mileage means wheelage.

Mr. NICHOLSON. If I did not so state, I wish to be understood that way. I would say again, 52.9 per cent of our expenditures were definitely located as being either freight or passenger. There is no estimate about that. That is a fact. Thirty-five and eight-tenths per cent are classed as common expenses, and were divided on the basis of train, cars, and engine mileage. All three factors enter in. There was 11.14 per cent which could be located in part and in part could not, and this was located on the train-mileage basis, so that it is a basis than which we have no better. I think it is the fairest basis that can be figured out. These statistics which I have given you in regard to this matter, gentlemen, were not prepared for this occasion. They were taken from our records, and we have kept them in this way for several years for our own information. In fact, we have kept them up ever since the Interstate Commerce Commission ceased to call for them. Even during 1906, a year of extraordinary prosperity, the total earnings from all sources of the passenger trains of the Southern Kansas Railway of Texas did not equal the bare cost of operation, this branch of

the service making no contribution whatever toward the payment of taxes and interest on the bonded debt, to say nothing of dividends on the stock.

The total earnings from all sources of the passenger trains of the Gulf, Colorado and Santa Fe Railway were slightly in excess of the cost of operation and taxes. The contribution of the passenger-train service toward the payment of interest on the bonded debt was, however, very small, being only \$22.89 per mile of road. Of course no contribution was made toward dividends.

For the system as a whole the total earnings from all sources of the passenger trains equaled the cost of operation, the share of the taxes and of the interest on the bonds, properly chargeable to the passenger-train service, and a very small contribution toward the payment of dividends on the preferred stock. None on the common.

This it must, however, be noted, is the best showing the system has ever made. During the fiscal year 1905, which was also a good year, the total earnings from all sources of the passenger trains fell \$263.79 per mile of road short of meeting the cost of operation and the share of the taxes and of the interest on the bonds properly chargeable to the passenger-train service, and allowed nothing for dividends.

There were several groups of railways in the sparsely populated regions of the Southwest which were closely allied to the Santa Fe system, but which were independently operated. Some of them, namely, the Denver, Enid and Gulf Railroad, the Pecos Valley lines, and the Santa Fe, Prescott and Phoenix Railway, are now embraced within the system.

The passenger business of these lines is very light, and if it were possible to compare the earnings of the passenger trains and the cost of the service the result would be very unfavorable; but unfortunately the expenses of these roads have not been separated between the passenger and the freight-train service. The earnings and the cost of passenger-train service can not, therefore, be contrasted, but if this were possible it is safe to say that the net results would not be more favorable than those of the Southern Kansas Railway of Texas and the Gulf, Colorado and Santa Fe.

Mr. ESCH. Can you tell the capitalization and bonded indebtedness without difficulty?

Mr. NICHOLSON. This shows that our interest on the bonded indebtedness was \$10,226,000. I do not know what the amount is.

Mr. ESCH. Do you know the rate?

Mr. NICHOLSON. No, sir.

Mr. ESCH. Could you supply that information some time and give it to us?

Mr. NICHOLSON. Yes, sir. I would be very glad to.

On our branch-line passenger trains—and this is true of every railroad—the service at the rate now charged is not self-sustaining. Earnings are now so low that any reduction of rates means a reduction in the number and frequency of trains. We do not expect to get the cost of operating the trains on some of our branch lines. If we waited until we did do that we would have to quit operating the branch until the people went out there to live. If we did, it would make it just so much more burdensome and so much the more necessary to reduce the frequency of those trains, because when you get to cutting expenses you have to cut where it will hurt the least. Here we have

three, six, nine, twelve branches of our railroad in the State of Kansas, in one State alone, where our passenger trains earn, say, from 30 to 70 per cent of the cost of running the trains. I can give you the figures in detail, but they will be rather burdensome to you to listen to.

Average train-mile earnings from passenger (mail, express, etc., earnings not included) of representative local trains for the two weeks ending July 22, 1906.

Train No.	From—	To—	Miles.	Average earnings from passenger per train mile.
307	Strong City.....	Superior.....	157.8	\$0.720
113	Florence.....	Winfield.....	73.0	.525
335	Florence.....	Ellinwood.....	98.7	.584
241	Chanute.....	Pittsburg.....	54.0	.712
245	Chanute.....	Pittsburg.....	54.0	.545
266	Emporia.....	Moline.....	84.4	.460
225	Havana.....	Cedarvale.....	39.0	.228
205	Ottawa.....	Gridley.....	56.0	.386
267	Chanute.....	Madison Junction.....	28.0	.308
207	Ottawa.....	Fredonia.....	94.0	.820
131	Ottawa.....	Lawrence.....	19.0	.570
133	Ottawa.....	Lawrence.....	19.0	.677

Average cost of operation, \$1.05 per mile.

Mr. BURKE. Will lowering the passenger rate have any effect on freight rates? Might it increase the freight rates?

Mr. NICHOLSON. As to that, sir, I can say that they are largely separate propositions.

Mr. BURKE. You have to earn money enough to pay operating expenses, that is sure; and you are running at a loss on your passenger business, and if you have a maximum rate that makes you lose that much more, you might have to make it up, would you not, from some other branch of the service?

Mr. NICHOLSON. Yes, sir. I have an illustration of that right now. Since less than thirty days ago, at the request of the retail merchants of St. Joe, Mo., and other towns on that branch, we have had a train running over to Lexington Junction, about 40 miles long, through a sparsely settled section of Missouri. We put on that new passenger train.

We knew it would not pay but the people asked for it and we did it. It is earning us about 20 cents a mile. We knew we would lose money when we put it on but we want to keep it there and earn on it as much as we can. It is one of the things we do, as the Congressman says, "for the good of the country," and if you do not do anything yourself in a good way in that line the railroads will be considered as doing nothing. The railroads are on the black list, you know, and you will excuse us for—

Mr. RYAN. Blowing your own horn?

Mr. NICHOLSON. Yes. [Laughter.] The effect of a national 2-cent-fare law will not be confined to interstate business. There will necessarily be a general readjustment of State rates if interstate fares are reduced to 2 cents a mile. Local rates on purely State business will be reduced in the same proportion. That I can enlarge upon and explain if it is desired.

It will be impossible to charge more for the State haul from Chicago

to East St. Louis than for the interstate haul from Chicago to St. Louis or to charge more for the State haul from Topeka to Kansas City, Kans., than for the interstate haul from Topeka to Kansas City, Mo. It is impossible to maintain a higher rate for the short haul than for the long haul, the former being included in the latter, and consequently there would have to be a general readjustment of State rates, entailing a heavy loss.

Here, gentlemen, is a statement made up for one month, the month of June, 1906, and I made this statement expressly—I had it made expressly—because we did not keep these statistics all the time. This statement is made to show how much of our passenger traffic through the month of June was purely within the borders of each State, and not interstate, and it shows that out of our total earnings for that month of \$1,617,788, \$639,000 was purely State or purely Territorial; 38 per cent.

Mr. MANN. Is that passenger business?

Mr. NICHOLSON. Yes, sir.

Mr. MANN. Will you put in the record a statement as to each one of the States and Territories?

Mr. NICHOLSON. As I say, this was made up specially. I will leave this statement with the secretary, if you like. This was made only for one month, but I assume it is just as fair for the entire year or period.

Mr. MANN. That was made for your own benefit?

Mr. NICHOLSON. If you gentlemen passed a law requiring us to take two cents a mile for interstate business and said nothing as to what we should do in the case of State business, the effect of it would be to reduce our earnings on this 38 per cent of purely State business, and if our earnings would suffer a 35 per cent reduction it would mean that for the Santa Fe alone it would reduce our earnings on State business alone \$1,270,000 a year, whereas there might not be a word in the law requiring it. Still that would be the logical effect; it would necessarily result, despite our best efforts.

Passenger earnings of the Atchison, Topeka and Santa Fe Railway system, Pecos lines, and Santa Fe, Prescott and Phoenix.

MONTH OF JUNE, 1906.

Atchison, Topeka and Santa Fe Railway system	\$1,617,788.13
Pecos lines	29,920.71
Santa Fe, Prescott and Phoenix	30,543.55
Total earnings	1,678,252.39
State and Territorial earnings (local)	638,996.86
Interstate earnings	1,039,255.53
Per cent of State and Territorial	38.07
Per cent of interstate	61.93

FISCAL YEAR 1906.

Atchison, Topeka and Santa Fe Railway system	18,013,988.56
Pecos lines	312,431.28
Santa Fe, Prescott and Phoenix Railway	297,906.94
Total earnings	18,624,326.78
State and Territorial earnings (38.07 per cent)	7,090,281.20
Per cent of interstate (61.93 per cent)	11,534,045.57
Probable loss on State and Territorial business \$7,090,281.20+25 per cent=	1,772,570.20

I am about through, gentlemen, and I will not weary you much longer.

The CHAIRMAN. Mr. Nicholson, I would like to make this statement to you: We shall not be able to print maps in our record, and I wish therefore, when you make references to them, that you would make your statement so complete that the reader will understand.

Mr. NICHOLSON. Yes, sir; I introduced it for that purpose. I have brought a long statement here, gentlemen, which I will not trouble you with, except to say that it shows that if you should legislate that the Santa Fe Railroad should charge 2 cents a mile maximum on its interstate business, it would have the effect of compelling us to take very much less than 2 cents a mile, because of the fact that in a great deal of our business our road is not the most direct line between two points, as anyone could see by looking at the map [producing same]. That is true not only of the Santa Fe, but of all the other roads. No railroad in the United States is the short line on the majority of its competitive business. It is always the short line on some of it, but in no case is it a short line generally except in their advertisements. [Laughter.]

Mr. ESCH. And on maps. [Laughter.]

Mr. NICHOLSON. Here we run on a basis of 2 cents a mile [indicating on map]. We earn 1.7 per cent, 1.6 cents, 1.5 cents, 1.4 cents, 1.3 cents, and 1.2 cents. I have taken principal points. I have taken Kansas City, Denver, Wichita, Fort Worth, Dallas, Houston, Galveston, El Paso, Phoenix, Los Angeles, San Francisco.

Mr. CUSHMAN. What do these per cents represent?

Mr. NICHOLSON. For instance, take the rate from Chicago to San Francisco: If the rate from Chicago to San Francisco is 2 cents a mile, it means the short mileage. All railroads like ours, that have a longer mileage from Chicago to San Francisco, have got to charge the same amount as the short line or go out of business. It would give us 1.6 per mile from Chicago to San Francisco. That is all that the Santa Fe would earn. It might cause the railroads, in their readjustments of these tariffs among themselves, to go out of certain business that they now compete for. That, I take it, is not in the interest of any of the communities that are served, nor is it the desire of you gentlemen that any such thing should result; and yet it is the most important thing, I think, in what I have to say, and it is this, that 2 cents a mile nominally does not give us 2 cents a mile in practice. There is not a State that we run through where we get anything like the rate per mile that others in that State get, because we have to accept what the short-line mileage yields—the direct rate.

Mr. STEVENS. How many lines are there between Chicago and Kansas City?

Mr. NICHOLSON. There are two, three, four, six, seven.

Mr. STEVENS. Which is the shorter?

Mr. NICHOLSON. The Santa Fe.

Mr. STEVENS. Then the others would get less than 2 cents?

Mr. NICHOLSON. Yes. Take from Chicago to Denver; the Santa Fe would get 1.7 cents per mile; some other railroad would get 2 cents, but that same railroad would lose in its Kansas City business.

Mr. STEVENS. Would you not get so much more, by reason of your being the shorter route between Kansas City and Chicago, as to make up for losses in other points where you were the longer route?

Mr. RYAN. It would average less than 2 cents.

Mr. NICHOLSON. They would all average less than 2 cents. Take all the reports of these railroads and you will find that none of them approximates that rate.

Mr. ADAMSON. I believe you claim an income on the local traffic. You would get the 2 cents on that?

Mr. NICHOLSON. No, sir; take Kansas City to Wichita, and Kansas City to Fort Worth and Dallas and Galveston and——

Mr. ADAMSON. Between all intermediate points you would get 2 cents?

Mr. NICHOLSON. We would if we were the shortest line.

Mr. RYAN. The highest rate charged would be by the shortest line?

Mr. NICHOLSON. Yes, or else go out of business.

The CHAIRMAN. Gentlemen, the hour of adjournment has arrived. This committee has no authority to sit during the sessions of the House, but there are so many gentlemen present waiting to be heard that I will ask the permission of the House to sit during this week without regard to the sessions of the House, and probably we had better have a session this afternoon and go right along. If it is the pleasure of the committee we will take a recess until 2 o'clock. All in favor of that motion, say Aye; opposed, No. The Ayes have it, and a recess will be taken until 2 o'clock this afternoon.

AFTERNOON SESSION.

STATEMENT OF MR. GEORGE T. NICHOLSON—Concluded.

The CHAIRMAN. Mr. Nicholson, you will proceed, please.

Mr. NICHOLSON. Mr. Chairman, I will try not to detain you very much longer. I would like to give a few illustrations of reductions in our earnings which would be caused by this proposed 2 cent per mile interstate rate on account of our mileage not being the short mileage. I have tried to take prominent points on the map, by which you will recognize the locations very readily. From Chicago to San Francisco we would earn but 1.7 cents per mile, the short line getting 2 cents. From Kansas City to San Francisco we would earn 1.6 cents. From Denver to San Francisco we would earn 1.4 cents. From Wichita to San Francisco we would earn 1.6. From Kansas City to Houston and Galveston we would earn 1.6 cents. From Chicago to Kansas City we would earn 2 cents, because we are the rate-making line. From Kansas City to Denver we would earn but 1.5 cents. From Kansas City to El Paso we would earn but 1.6 cents. From Kansas City to Phoenix we would earn 1.8 cents; from Kansas City to Los Angeles 1.7 cents. From Denver to Fort Worth we would earn 1.7 cents. From Denver to Houston we would earn 1.6 cents. That could be enlarged upon indefinitely between this list of cities which I have mentioned—prominent cities in Illinois, and on the Missouri River, and in California and Texas, and so forth.

Mr. WANGER. Are these percentages applicable to the present rate charged?

Mr. NICHOLSON. Oh, no, sir; the present rate gives us better rates.

Mr. WANGER. I mean would the same proportion hold good?

Mr. NICHOLSON. No, sir; the same proportion would not hold good in the case of the Pacific Coast routes, but in the case of the route from

Chicago and Kansas City to Texas. The Pacific Coast rates to-day are not made on anybody's mileage. They are what is called blanket rates, \$50 even from the Missouri River.

Take that as an illustration, and the new rate from Kansas City to Omaha, to the Pacific Coast, and points such as San Francisco, and Los Angeles, and San Diego, instead of being \$50 would be \$32.85. That is less than 2 cents a mile by anybody's mileage from the Missouri River to those points.

But it comes from the way rates are made. You take Fort Worth to Los Angeles, to San Francisco. The direct line is through El Paso. Of course the Southern route—several of our roads go down into Texas, Fort Worth and Dallas and Houston—and at the same rate we bring a man up through Kansas and then take him West. It gives us that many more lines to compete with for the business.

Any legislation that would drive us out of that business would be in restraint of trade, I should take it, so that if we stayed in for that business the highest rate that could be sustained would be \$32.85.

In the passenger business we have a very different basis of rates necessarily from freight business. In no case is the passenger rate to or from intermediate points in excess of the through rates, because the man otherwise would buy his through ticket and get off the train. There you are. You can not enforce any rate between intermediate points to compensate you, as is done, and properly done, in the transportation of freight. Therefore, in this proposition you have gotten down to the point where you take your yardstick and make your shortest line, multiply that by 2 cents, and the other railroads have the privilege of meeting that or going out of business if they choose. If it is between large commercial centers they would necessarily choose to remain in business. That, therefore, becomes the maximum rate of their intermediate business, so that it drives these rates down materially, much lower than I think would be contemplated by any law making body; but it would be the inevitable result.

TARIFF B.

Between—	Chicago.	Kansas City.	Denver.	Wichita.	Phoenix.	Los Angeles.
Houston:						
Present rate.....		\$21.80				
Santa Fe earnings per mile.....		\$0.024				
Short line mileage.....		748				
2 cents per mile rate.....		\$14.95				
Santa Fe mileage.....		947				
Santa Fe earnings per mile, new rate.....		\$0.016				
Galveston:						
Present rate.....		\$23.35				
Santa Fe earnings per mile.....		\$0.025				
Short line mileage.....		796				
2 cents per mile rate.....		\$15.92				
Santa Fe mileage.....		951				
Santa Fe earnings per mile, new rate.....		\$0.017				
Phoenix:						
Present rate.....	\$58.25	\$45.75				
Santa Fe earnings per mile.....	\$0.03	\$0.031				
Short line mileage.....	1,837	1,379				
2 cents per mile rate.....	\$36.75	\$27.60				
Santa Fe mileage.....	1,972	1,514				
Santa Fe earnings per mile, new rate.....	\$0.019	\$0.019				
Los Angeles:						
Present rate.....	\$62.50	\$50.00	\$44.20	\$50.00		
Santa Fe earnings per mile.....	\$0.028	\$0.028	\$0.032	\$0.031		

TARIFF B—Continued.

Between—	Chicago.	Kansas City.	Denver.	Wichita.	Phoenix.	Los Angeles.
Los Angeles—Continued.						
Short line mileage.....	^a 2,217	1,759	1,351	1,563		
2 cents per mile rate.....	^a \$42.00	^a \$32.85	^b \$23.40	^c \$30.60		
Santa Fe mileage.....	2,265	1,807	1,418	1,632		
Santa Fe earnings per mile, new rate.	\$0.019	\$0.019	\$0.017	\$0.019		
San Francisco:						
Present rate.....	\$62.50	\$50.00	\$44.20	\$50.00		
Santa Fe earnings per mile.....	\$0.025	\$0.024	\$0.026	\$0.026		
Short line mileage.....	2,276	2,016	1,376	1,837		
2 cents per mile rate.....	^a \$42.00	^a \$32.85	^b \$23.40	^d \$30.60		
Santa Fe mileage.....	2,576	2,118	1,729	1,943		
Santa Fe earnings per mile, new rate.	\$0.017	\$0.016	\$0.014	\$0.016		

^a \$30.60 rate from Fort Worth to San Francisco, applied at Emporia, plus \$2.25 from Kansas City, establishes Missouri River-California rate.

^b \$16.25 El Paso to Los Angeles, applied at Albuquerque, plus local from Pueblo, establishes Colorado common point, California rate.

^c Fort Worth to San Francisco, use Bakersfield as dividing point, figured at 2 cents per mile, exceeds the Houston rate; hence, latter governs.

^d Made same as Los Angeles, Cal.

CHICAGO, January 4, 1907.

There are many features, gentlemen, of this proposed interchangeable one-thousand-mile-twenty-dollar-transferable-unlimited book which would be quite objectionable to the railroads. Very fair objections would be recognized, no doubt, when you care to examine them. But there are other gentlemen who will follow me who are very much better able to give those objections than I am, and I will leave that to them.

Simply permit me to reiterate one point which I consider very strong in my argument: House bill 20153 provides for a transferable ticket which may be sold by any railroad, and all of the railroads must honor it, and it is redeemable—the unused parts of it are redeemable. Now assuming that you should say to me, "Well, I do not put any stress on your argument, because that would go without legislation. The Interstate Commerce Commission would take care of that. You should do that in your State. That is an interstate arrangement." But I make this point: I am living at Chicago, and I may want to go to Joliet, 40 miles away, or to some other point 100 miles away, and I have got as much as a \$100 bill. I will take it and buy that universal mileage book and ride to my destination, and then I will go to the ticket office and, having traveled 40 miles, I will get back all but 80 cents.

The poor man, however, can not do that, and the inevitable effect of that will be that State legislatures will at once follow it up and say that "In all fairness to all classes of people we represent you must be equitable in your rates, and you have no right to haul a man who happens to have a \$20 bill more cheaply than the man who has got 80 cents." It is an argument which nobody can face, and therefore I simply want to reiterate the statement that the effect at once of this law will be to establish in every State and Territory in the United States a 2-cent rate for trip tickets for long and short distances alike. We could not avoid it, and if we did undertake to avoid it as soon as the legislatures could get hold of it they would fix it so that we could not do otherwise than accept the 2-cent rate for both short and long distances.

I also want to call your attention, gentlemen, to another point,

and that is that any act of Congress establishing a fixed rate per mile, whether you in your wisdom say it shall be one or two or three cents, would be unfair to certain sections of the country. If you make it so that in your judgment it is fair to the roads that have a tremendous passenger traffic and who perhaps could afford it, and who may to-day be not getting more than 2 cents a mile, certainly it would be unfair to the sparsely-settled regions and the railroads serving them, where that rate would not pay for the operating expenses of the trains. On the other hand, if you fixed it high enough to be a satisfactory rate in the sparsely-settled regions it would be too high in the other regions.

Now, gentlemen, we have an Interstate Commerce Commission that has full power, as I understand it, to look into all inequalities of passenger rates as well as of freight rates, and they can take up any features that are complained of as being unfair in any section of the country and deliberate on them, and if that should be suggested as unfair in any way they could still do that and leave the rest of the country as it is. In other words, they would not necessarily be compelled to make a blanket rate because the rate in one locality would be too high.

Mr. RICHARDSON. Suppose the Interstate Commerce Commission should be vested with power to say that the rate should not exceed a certain amount, say 3 cents a mile. How would that do?

Mr. NICHOLSON. Here is a bill, House Bill 22133, which provides for a 2-cent rate with the understanding that—

The Interstate Commerce Commission shall have power, and is hereby empowered, when any such railway company, upon its application, shall make it clearly to appear that the cost of transportation of passengers over its railway tracks is unusually great, to enter an order in such proceeding suspending the operation of this Act as to such railway company, and in such case it shall be lawful for such railway company to charge a fair and reasonable price for such transportation in excess of two cents per mile.

That, gentlemen, puts the onus of the increased rate upon the Interstate Commerce Commission, and if they in their wisdom should exercise the right given them under this bill it would make them extremely unpopular, which is something you do not care to thrust upon them. If today we are charging 4 cents a mile in Arizona and you pass a law saying that we shall not charge more than 2 cents unless we are permitted, and then the Commission, the Interstate Commerce Commission, permits it they would be condemned for doing it. If the rate is 4 cents let it stay there until the Commission decides that it is too high and should be reduced. If they do reduce it there will be no opprobrium cast upon them. You should establish what is a fair and reasonable charge.

Mr. KENNEDY. To the last bill you quoted from I proposed at a reasonable time to offer an amendment in place of the last clause, limiting the operation of the 2-cent rate to railroads having a gross earning of some particular figure per mile. I state that now so that you might discuss the question of the earnings of the railroads. That probably would exclude your road from its operation.

Mr. NICHOLSON. This is my first offense in addressing committees of legislators, and I hope if I should put my criticisms of this proposed legislation a little bit too strongly it will not be taken in an offensive way.

Mr. PAYSON. You can not hit them too hard. [Laughter.]

Mr. MANN. Mr. Nicholson, part of your road is east of what we call the Missouri River line and part west, I suppose?

Mr. NICHOLSON. Yes, sir.

Mr. MANN. How do you describe that?

Mr. NICHOLSON. We have a term, what we call "Trans-Missouri," meaning west of the Missouri. That is the line supposed to cover the roadway from St. Paul down to Sioux City and Omaha and Kansas City and down to Dallas and Houston, Texas.

Mr. MANN. Have you different traffic associations for each side of the Missouri River?

Mr. NICHOLSON. In our passenger business we have a traffic association that covers from Chicago and St. Louis and the Mississippi River line as far as the Colorado.

Mr. MANN. Is the Missouri River the general base point?

Mr. NICHOLSON. It is in passenger rates.

Mr. MANN. And for freight rates, too, I suppose?

Mr. NICHOLSON. Largely.

Mr. MANN. Is the Missouri River possible or susceptible of being designated in such a way, for instance, that we might provide legislation for the passenger rates east of the Missouri and a different rate west of the Missouri River?

Mr. NICHOLSON. Perhaps you could; but perhaps it would be more accurate to define it by States, naming the States in each list.

Mr. STEVENS. Mr. Nicholson, you probably have read, as we have, in the daily press that the governors of several States through which your lines run have recommended to their legislatures in their several messages a 2-cent rate for their States?

Mr. NICHOLSON. Yes.

Mr. STEVENS. Suppose the legislatures should adopt the suggestion of the governors in the States of Kansas, Missouri, and Iowa. What would happen if they did that? Would you not be obliged to put the 2-cent rate into effect, whether we passed these bills or not?

Mr. NICHOLSON. Well, we are perfectly aware of the fact that there is a strong probability that such a bill will be passed.

Mr. STEVENS. What will be the effect of it, so far as your roads are concerned, on interstate traffic?

Mr. NICHOLSON. If I may say so without having you regard it as a threat, as in Kansas, I will say we would fight that in the courts as a confiscation of our properties.

Mr. MANN. I understand that has been done in Ohio, but I do not think you have done it—

Mr. NICHOLSON. The propositions of Ohio and Kansas are altogether different propositions as to equitable rates. We have neither the population nor the wealth in Kansas that there is in Ohio.

Mr. STEVENS. Would you not be obliged to change your interstate rates if Missouri and Iowa and Kansas or some of the others adopted it?

Mr. NICHOLSON. Yes. In answer to that question I will say that any change in the State rate, or any change affecting an interstate rate, at once fixes the State rate or rate within the State, and it goes down accordingly. In the passenger business there is no such thing as holding up through rates in contradistinction with local rates. It is impracticable, and is not contemplated by the railroads. The

passenger can simply get off at the station. If you charge in Kansas 2 cents per mile, our rates in Kansas and out of Kansas are necessarily reduced by that act, and must at once come down; and in precisely the same line of argument, as I stated here already, the requirement of a national character of 2 cents a mile, to say nothing about the State requirement, will at the same time bring down the State rate.

Mr. STEVENS. Have you figured on the amount of probable reduction in case the States should enact that statute, or in case we enacted something of the kind here? Have you made a computation showing the amount of decrease in the revenues?

Mr. NICHOLSON. Yes, sir; twenty-five per cent; and I stated that I would explain to the Committee how I arrived at that estimate, if the Committee care to hear it.

Mr. STEVENS. Before you come to that explanation, if you were obliged to decrease your passenger revenues 25 per cent, would that produce any difference in the facilities you offer to the public?

Mr. NICHOLSON. Not at all, sir, as a reprisal, but—

Mr. STEVENS. Would you give them the same number of trains, and so on?

Mr. NICHOLSON. Until we found we were unable to do so we would continue the same number of trains. No Western railroad is in the mood to do something and have it said that "It is your lawmakers that give it to you." But as I said, it is quite likely that just as long as the railroad companies begin to have decreased revenues, as they may have—I am not a croaker, but we may not always have the same prosperity that we have today—the auditor is called upon to cut down expenses, and if he does not do it somebody will be put in there who will do it; and the logical result is that the passenger train service will be reduced that is not paying the cost of operation, just as sure as hard times come; it will not be by way of reprisal, but it is simply an equitable proposition.

Mr. ESCH. Have you considered the proposition of the possible increase of the traffic by reason of the reduction of the rate?

Mr. NICHOLSON. Yes; I have considered it.

Mr. ESCH. What would you figure that out to be?

Mr. NICHOLSON. I could not speak of the increase of the passenger business at the present time on other railroads, but I want to say that in my own opinion our passenger business in the West is increasing with as large a ratio as any other part of the United States to-day without a reduction of the rate.

Mr. ESCH. Would it increase in a much larger ratio if the reduction were made in the rate to 2 cents per mile?

Mr. NICHOLSON. Some; not very much.

Mr. ESCH. Is not it the experience of some reductions? I have in mind a Michigan road where, as a result of the reduction, an increase has more than made good the loss incident to the reduction.

Mr. NICHOLSON. Oh, in the territory you speak of the country is gridironed with electric lines. They are everywhere throughout the United States, but maps do not show that. The people ride on these trains. We do not have those in the Santa Fe territory, although in a district around Los Angeles there are some, and there may be some in and around Omaha.

Mr. MANN. The electric railroads compete with passenger lines and

will get a good share of business. Why would you not compete with those lines if you put the rate down to what they are in the East?

Mr. NICHOLSON. I took that into consideration when I made my estimate of 25 per cent.

Mr. MANN. That estimate of 25 per cent is not merely based upon a 25 per cent reduction in rates, but on a 25 per cent loss of business?

Mr. NICHOLSON. The loss on the whole thing. I will show you how I get at it. One man's judgment on this is just as good as another's, provided you make some allowance for his experience. In our territory the most thickly populated territory we serve is on a 3 cents per mile basis. That is from the Rocky Mountains to the Missouri and Mississippi Valley. That is on a 3-cent basis to-day. The 2-cent basis brings that down one-third. When you get West of that the next best territory we have is on a 4-cent basis. That includes New Mexico, Arizona, and much of California. We have some of 5 cents, and we have some few little branches that run up to mining camps as high as 4 and 5 and 6 cents. Therefore your first reduction is one-third on your most profitable territory and about 40 per cent on the 4-cent territory, and more than that on the 5-cent territory. It brings it down, as I figure it, to where 38 per cent of our passenger earnings would be taken away, provided you had no increase of business.

Now as an offset to that you can take off something of your 38 per cent for increased business. We are running now from 10 to 15 per cent increase over last year, and last year's was the biggest business we ever did. I hope other roads are doing even better than that. But take off something for that.

Now, then, you come to the class of business that is done on excursion rates and on your mileage rates, and I take the position that on that business we can still get the same rates per mile that we now get. For instance, if there is an excursion for a Grand Army convention we make them a cent-a-mile rate. For the ordinary convention we make a rate of one fare; that is, 3 cents for the round trip, or 1½ cents each way. If we have a 2-cent law we can still charge 1½ cents each way, and it will be an excursion ticket. While I admit that that volume of our passenger earnings that is represented by excursions and mileage business, 1,000, 2,000, and 5,000 mileage book rates, can be maintained at its present figure, that is a reason why it is not a full 38 per cent decrease. I make an allowance for that and for the natural growth of business as a result of the reduced rate, and I come down to the proposition that to reduce our earnings from 38 to 25 per cent is a very conservative estimate. I believe it will be larger than that.

Now, take the element alone of the excursion business. The men and the people in the country and in the small towns come in and see a cheap rate advertised, and if they do not go you do not get your money. A great deal of their travel is occasioned because it is a cheap rate. We transact business when we make them a half rate. Those people get on the train and go. If you charge them 2 cents a mile every day and then offer them 1½ cents as an excursion, which in my opinion we would still do, they might say, "Well, if I get ready I will go, and if I don't get ready, I won't go at all." That item is going to materially decrease our earnings from excursions, unless we further reduce our excursion rates as you reduce our regular ticket rates.

But I eliminate all that from the proposition and take the position

that we could, if we wanted to, still continue to charge the same as we do to-day for excursions. I want to modify that to this extent, however, that it applies to local and short-distance excursions. When you come to Pacific coast business you will find it is altogether different.

I have a table here from which I was reading just now, before you came in [addressing Mr. Mann], in which I showed that the rate from Chicago to San Francisco will be \$42. Twice that would be all that you could charge for a round-trip rate, \$84; whereas we now charge \$110. There would be a heavy discount from the excursion rate, so that there are some excursion rates, at least, that would come down.

Mr. MANN. You mean the \$42 is a short-line rate?

Mr. NICHOLSON. Yes. We would have to meet it or go out of business, and that would be in restraint of trade. Any rate that forces any railroad out of business is in restraint of trade. That is my opinion, although I am not a lawyer.

Mr. ESCH. With reference to some of the principles that guide us in determining the merits of this bill, allow me to remark that your argument has been directed almost wholly to the receipts from passenger traffic. Do you think we could legitimately consider, in connection with your passenger traffic, also the returns from freight traffic? Because you say a road does not pay for its passenger traffic, are we deprived of the right of considering your returns from freight?

Mr. NICHOLSON. You mean that the passenger-rate law would carry with it the guaranty that there would be no reduction in freight rates?

Mr. ESCH. No. You do not get my idea. In determining whether this is a proper measure to pass, can we consider also the profits that the railroads get from their freight traffic; also your income from other sources—express, mail, and dividends on stock held in other corporations, and things of that kind?

Mr. NICHOLSON. As to our earnings on mail, we are perfectly powerless to increase or decrease them. They are a matter wholly in the power of Congress, and we have to take what they give us for that. The statistics I give include our mail earnings and passenger trains.

Mr. ESCH. You make no reference to freight returns?

Mr. NICHOLSON. No, sir. In answer to that I should say no, because on all railroads the two propositions are absolutely independent. For instance, we have a passenger department and a freight department. If the passenger department has before it a proposition to reduce or change the rates, it never has any occasion to consult the freight department about that. It stands on its own basis. It is a business of itself, and there is no interlacing of the two kinds of business.

Mr. ESCH. This follows with reference to your suggestion as to restraint of trade, or putting it in the hands of a receiver. If the dividends are large from freight, have you a right to consider that fact in connection with the rate on passenger traffic?

Mr. NICHOLSON. I should say that is a matter for the attorneys. But I understand there are court decisions under which the railroad attorneys hold that there is protection for them as against confiscatory rates.

Mr. ESCH. Yes; that is a Nebraska case.

Mr. NICHOLSON. But I am not competent to discuss that, though I would be very glad to express an opinion. Do I understand your question to mean this, that if the reduction in passenger rates results in an increase in passenger business and thereby helps the passenger problem, should that be considered an item?

Mr. ESCH. No; not exactly. I say, in deciding the merits of this bill, can we take into consideration the returns of the railroad on its freight business?

Mr. RYAN. The gross earnings of the railroad?

Mr. ESCH. Yes.

Mr. NICHOLSON. I should say that would not be a proper thing, because there is a body, the Interstate Commerce Commission, that has full power to consider freight or passenger rates on the merits—on the merits of each particular road that may come before their attention upon complaint; and I should say if a complaint was made to the Interstate Commerce Commission that certain rates from A to B on coal, for example, were entirely too high and ought to be readjusted, that the railroad could not set up as an argument that it had a low passenger rate and therefore should be allowed to charge a high rate on coal. I do not think that would be acceptable or be considered sound sense, so that I say the passenger proposition should be considered by itself.

Mr. ESCH. And you think that we should not go into the consideration of returns from earnings from any other source?

Mr. NICHOLSON. I should say so.

Mr. RICHARDSON. You gave before noon illustrations of two roads that you are running at a loss, and you said that the aggregate passenger receipts and the gross expenses differed by \$800, or eight hundred and some odd dollars. Do you not recoup your loss in the passenger trains by freight rates? You do not run that road on a loss, do you?

Mr. NICHOLSON. No; we endeavor to recoup the loss, as every road that has a large number of branches does. It is simply some mileage that is not profitable, but it is operated because it is a part of the entire system and a part of the country which it serves. Take this particular illustration that I brought out this morning. We hope to see the day—and it is rapidly coming in that section of the country—when people will come in to make that a good railroad, a good paying road.

Mr. RICHARDSON. You do not decide or fix the freight charges in order to recover losses incurred on the passenger traffic? They are separate and distinct?

Mr. NICHOLSON. Yes. We do not make our freight charges on the road higher in order to recover from the passenger loss. The whole proposition is made eventually on the theory that the country will develop. We have built the railroad, and will keep on running it until it eventually becomes profitable.

Mr. RUSSELL. Let me ask you a question. What kind of people, in your judgment, would buy the 2-cent mileage tickets or books? What kind of travelers would make those purchases? Would they be mostly commercial men, commercial travelers?

Mr. NICHOLSON. Nobody would be likely to buy mileage books after the regular ticket rate was reduced to the 2-cent basis.

Mr. RUSSELL. These bills provide for the sale of a 2-cent mileage book?

Mr. NICHOLSON. Yes, sir; and I presume that your view is that local ticket rates would stay where they are. But I make the argument that they would not stay there.

Mr. RUSSELL. In that case who would be the purchasers of these mileage books? Would they not be the commercial travelers?

Mr. RICHARDSON. Did you not say awhile ago that it would be a discrimination between the poor and the rich man?

Mr. NICHOLSON. Yes.

Mr. MANN. Everybody who had \$20 would buy them. I am sure I would not buy anything else.

Mr. NICHOLSON. The commercial travelers are always the largest purchasers of mileage books.

Mr. RUSSELL. I think you made some statement in the forenoon about what per cent they covered.

Mr. NICHOLSON. It is a very small proportion.

Mr. RUSSELL. What other people besides the commercial travelers would be likely to purchase these?

Mr. NICHOLSON. There is no mileage ticket at present which you buy as a commercial traveler but what you have to use it yourself in order to get the refund. Here is a proposition, however, to sell a ticket as good as bank currency. In fact, you could carry them around instead of paying the exchange on bank checks.

Mr. SHERMAN. Mr. Nicholson, are you not in error in that statement?

Mr. NICHOLSON. I think not.

Mr. RUSSELL. Could not a man travel forty miles or so and then cash in the book?

Mr. NICHOLSON. Yes; he could do that. You would have ticket brokers in every town in the Western country unless you made a provision to prevent it. No one had any idea that this would encourage the growth of scalpers' tickets, but it would encourage that on its very face.

Mr. RUSSELL. What would be the encouragement to a man to buy a mileage ticket unless he could cash it in?

Mr. MANN. The scalper could not pay any more than its face value for it.

Mr. NICHOLSON. Certainly not; but the scalper would have lots of customers who have not got \$20 bills.

Mr. MANN. Yes; but the scalper probably would not be able to handle the tickets in that way. You say you have got to put down the price of regular tickets?

Mr. NICHOLSON. As soon as we put down the price all that would be done away with. But to start with, the purchasers of these tickets would be largely commercial travelers and any other wholesale travelers, and as soon as the railroad would be compelled by circumstances, as I predict they would be, to reduce the rates generally to the 2-cent basis, mileage books would be obsolete.

Mr. MANN. Suppose this bill providing for the issuance of mileage books should make them not transferable and redeemable only at the general office of the company making the issue?

Mr. NICHOLSON. That would be a very much better bill.

Mr. MANN. What effect would that other kind have—an interchangeable mileage book?

Mr. NICHOLSON. That would have the effect of reducing our rates

in what I would call the Trans-Missouri territory. We now have no mileage rates out there of less than $2\frac{1}{2}$ cents a mile. We reduced that rate one-half cent a mile.

Mr. MANN. Have you a mileage book elsewhere that is not good East?

Mr. NICHOLSON. It is not transferable. The territory is cut up into districts.

Mr. MANN. How many of those districts are there in the United States? Do you remember?

Mr. NICHOLSON. In the territory which I represent there is the Western Passenger Bureau, which covers up to the Missouri River—we will say Chicago, St. Paul, and Kansas City, and St. Louis, and down there. They would have another in Arkansas and Texas and the Indian Territory. Then we have another that is good in Kansas and Colorado and New Mexico and that region, and then we have still another which is good on the Pacific slope, from the Rocky Mountains to the coast.

Mr. MANN. So that a commercial traveler now, traveling through the West generally, if he wishes to have a mileage ticket must have a number of them?

Mr. NICHOLSON. Yes, sir; and he also takes different routes in different sections of the country for precisely the same reason that we charge the ordinary traveling public higher rates in one section than in others.

Mr. BURKE. How recently have there been reductions generally on your system of passenger rates?

Mr. NICHOLSON. On the 1st day of July, 1906, we made voluntary reductions in our rates in Colorado from 4 to 3 cents a mile. In California, on the line from Needles to San Bernardino, from 5 to 4 cents a mile; from San Francisco to Phoenix, from 6 to 5 cents a mile; on the main line in Arizona from 5 to 4 cents a mile. Those were voluntary reductions. There never was a letter or request or petition from any citizen of the United States to us on the subject, that I know of.

Mr. SHERMAN. Were all of these reductions made after the introduction of this bill that you are now discussing?

Mr. NICHOLSON. Suppose they are. We reduced from 10 to 8 cents, and from 8 to 6 cents, and from 6 to 5 cents before that.

Mr. SHERMAN. I know; but I was speaking of this that you just referred to.

Mr. NICHOLSON. Well, we are speaking of the rates to commercial travelers.

Now, I want to speak of an opinion that may have a little bit of dynamite in it for the railroad man who is engaged in procuring freights, but I see no reason why the commercial travelers in this country should have any lower rate per mile than the most humble citizen. They are not entitled to it.

Mr. SHERMAN. Does this bill call for it?

Mr. NICHOLSON. No, sir; except in the sense that, so far as I know, that is the source of the only organized demand for the reduction in mileage-ticket rates. That comes from the commercial travelers, and when you get next to them you will find that they want not a public rate but a special rate for themselves which is advantageous to themselves only.

Mr. BURKE. Mr. Nicholson, does your company operate any trains known as excess-fare trains?

Mr. NICHOLSON. No, sir; we do not. We have one train of that character—that is, it carries nothing but first-class Pullman sleepers on it, has no chair cars, and has thereby the effect of making a class train, but we do not have any extra fare on it. However, there are very many trains of that character throughout the country.

Mr. STEVENS. Before you conclude, Mr. Nicholson, I would like to ask you this: Is there any connection between the passenger department and the operating department of your road, or in any other that you know anything about, so that the reduction of revenues in one department would affect the expenses which the operating department would incur in the line of wages and things of that kind? Does one department take the other into consideration?

Mr. NICHOLSON. Just about as quick as you stuck a pin in your finger you would feel it in your brain. The minute our earnings go down we try to save all we can.

Mr. STEVENS. Suppose those States which I mentioned to you had established 2-cent rates, and suppose it had the effect you describe upon passenger rates, what would be the effect upon the operating department?

Mr. NICHOLSON. Immediately?

Mr. STEVENS. Yes; immediately or at any other time, from your experience or in your judgment.

Mr. NICHOLSON. I think it would have no effect until the earnings showed some material decrease. It would take some considerable time to determine that.

Mr. STEVENS. What would be the effect then?

Mr. NICHOLSON. The immediate effect then would be a close examination of our passenger-train service. They would take the earnings of the branch road that was showing a deficit and try to bring its operation to a cost basis.

Mr. STEVENS. And cut down expenses?

Mr. NICHOLSON. Yes, sir.

Mr. STEVENS. How?

Mr. NICHOLSON. The only way you can cut down expenses in passenger service is to take off some trains. If you run the trains your expenses are practically a fixture. You can not run a train and still reduce the expenses materially.

Mr. STEVENS. Could you decrease wages?

Mr. NICHOLSON. No, sir.

Mr. STEVENS. That is regulated by another power?

Mr. NICHOLSON. Yes; and not the railroad power, either.

Mr. STEVENS. I wanted to make that a matter of record.

Mr. NICHOLSON. You can not decrease wages or the cost of supplies. If you have a good purchasing agent, he is supposed to get them as cheaply as he can anywhere; and the cost of maintenance of the road has to be taken into consideration.

Mr. STEVENS. Then if you are confronted with a steady cost that will not decrease on the one side and with decreasing revenues on the other, what is the inevitable effect?

Mr. NICHOLSON. The inevitable effect is to reduce the passenger train service, and that will come primarily and with full force upon the communities that already have an inferior service. If you have

a main line of travel between two big cities you have got to run your trains there anyhow, and you will reduce in your agricultural regions on your branch lines and in a sparsely-settled country. They will feel it. I would be very sorry to see it done.

Mr. STEVENS. Is it possible in any way to decrease the cost of equipment by getting cheaper cars or equipment, or cheaper tracks and material, and cheaper station material?

Mr. NICHOLSON. No, sir; any railroad that would undertake to buy cheaper cars nowadays would be pilloried. Cars are getting more expensive all the time. Even freight cars are having steel underframes put on them, and all that sort of thing, for matter of safety. Passenger cars, likewise, are being built stronger and more expensive. Every lot is more expensive than the previous lot, not only because the cost of material has gone up, but also because the cars are of more expensive pattern.

Mr. ESCH. That allows you to carry more freight, though. You have increased the tonnage of your cars vastly by reason of that fact?

Mr. NICHOLSON. Yes, but I do not know how the underframing of the freight cars has done that?

Mr. ESCH. You have 60,000-pound cars now?

Mr. NICHOLSON. Yes, and we have some that are not steel underframed; but I am very sure that no railroad company would retrench in expenses in any item which affected the safety of the traveling public on account of the bill. That would be suicidal and inexcusable.

THE CHAIRMAN. Have you any data to show the average number of passengers to a car in your entire service?

Mr. NICHOLSON. Yes, sir. Oh, per car? I can show it to you simply per train. I haven't got it per car. I will furnish you that information per train. I can not give it to you per car. I thought I had it with me.

The CHAIRMAN. Have you anything to show the average number of passengers in Pullman cars in your service?

Mr. NICHOLSON. No, sir; we have no such statistics.

The CHAIRMAN. I wish you would tell us what you understand by this language: "Shall not be restricted in passage on any passenger train of any railroad engaged in interstate commerce."

Mr. NICHOLSON. My understanding of that is that there shall be no extra-fare trains, as we call them, or trains requiring an extra payment above the price of the railroad ticket.

The CHAIRMAN. Do you think that language would accomplish that prohibition?

Mr. NICHOLSON. I think so, sir.

The CHAIRMAN. Are you prepared to speak with reference to the power of Congress to legislate in certain directions shadowed in this bill?

Mr. NICHOLSON. I should say those are legal questions, and I am a purely traffic man. I certainly should not want to say you did not have the power.

Mr. LOVERING. Mr. Nicholson, you said that any legislation by Congress would be followed by State legislation?

Mr. NICHOLSON. Yes, sir.

Mr. LOVERING. Has that been the case in States where the 2-cent mileage has been accorded heretofore?

Mr. NICHOLSON. Up to this time, sir; so far as I know, there has been no national legislation on the question of passenger fares, establishing fares. It has all been by States.

Mr. LOVERING. But has the adoption of the 2-cent mileage rate in any State been followed by legislation elsewhere?

Mr. NICHOLSON. It has been followed by tremendous agitation elsewhere, and the legislatures of the States that our roads serve, most of them, will meet early this year, and we anticipate that they will all consider these reduced passenger fare bills.

Mr. LOVERING. There has been 2-cent mileage for a great number of years in some of the Eastern roads, has there not?

Mr. NICHOLSON. Only in spots. It is generally understood that the 2-cent rate on the New York Central has been in force for many years, but that is not the fact. It has been only recent.

Mr. LOVERING. It has been by the New York, New Haven & Hartford.

Mr. NICHOLSON. I think the New England roads put in the 2-cent basis two years ago, did they not?

Mr. RICHARDSON. Those State legislatures that you say are going to meet soon and will act, as you apprehend—if they did that your plain remedy would be that your property would be taken from you without due process of law, if you went to the courts, or by confiscation. They could not do that without your having a day in court?

Mr. NICHOLSON. No, sir; that is the position we take.

Mr. RICHARDSON. That is what you would do?

Mr. NICHOLSON. Yes, sir; but I make the point, gentlemen, here, that if you put in the 2 cents per mile nationally, we have to follow right down and put it in as a State proposition. You can not lock a man up in a car and carry him against his will to a certain place. He will get off the train. If you enact any of these three bills, we shall have a 2-cent rate to any point in the United States.

Mr. RICHARDSON. If the rate is made so low that you can not make ends meet, then you would invoke the constitutional authority?

Mr. NICHOLSON. I am not the power on our road to say definitely what our procedure would be, but I suppose that would be the programme.

Mr. MANN. I do not want to shut off Mr. Nicholson, but I want to say that there a great many other gentlemen here who would be glad to be heard.

The CHAIRMAN. If Mr. Nicholson is through, we will hear from Mr. Johnson.

Mr. NICHOLSON. I am through. Thank you, gentlemen.

The CHAIRMAN. Gentlemen, there are two or three propositions to which I would like to call the attention of some of the gentlemen here, gentlemen who I suppose are before the committee. I would like to ask some gentleman to give us his opinion as to the power of Congress to enact this as legislation: "And that they shall be good for transportation and checking of baggage upon the trains of any railway in the United States." And this: "And shall be redeemed upon presentation at any ticket office of any railroad engaged in interstate commerce at their face value." I suppose that language applies to roads, or would be applied to roads that may be very remote, one from the other, and that may have no business connection of any kind, and that may not have any traffic relations. I

would like to know whether Congress has the power to compel one of these remote railroads to accept as a legal tender for the service the mileage ticket issued by some other road, or whether we have the power to compel this remote railway to redeem the obligation of another road.

Mr. Johnson, we will hear you.

STATEMENT OF MR. J. M. JOHNSON, REPRESENTING THE DENVER AND RIO GRANDE, THE ST. LOUIS SOUTHWESTERN, THE TEXAS AND PACIFIC, AND THE INTERNATIONAL AND GREAT NORTHERN RAILROADS.

Mr. JOHNSON. Mr. Chairman and gentlemen of the committee, the argument I submit is the argument of the Denver and Rio Grande Railroad. I have not gone into the statistics of the matter, because I felt that any statistics that you might want we would be very glad to furnish, and would be very glad to furnish them in any manner in which you might want them. I have only gone into the general propositions of the bill or the general principles of the bill rather, as they appeal to us.

This bill undertakes to impose a uniform rate which is to be applied alike by all railroads, although the circumstances and conditions are dissimilar in that it seeks to establish a uniform maximum passenger rate of 2 cents per mile on all interstate railways for all interstate travel, regardless of the fact that circumstances and conditions surrounding the several carriers are unlike in nature and character.

A rate which would render only a fair and reasonable return to a railway in a densely populated section of the country where the traffic is heavy if applied to the passenger travel of our western roads which traverse sparsely settled and mountain sections where travel is light and cost of construction, maintenance, and operation much greater than that in the eastern section would prove ruinous.

The operation of the Denver and Rio Grande system through a mountainous country (Colorado, Utah, and New Mexico) sparsely settled, the volume of traffic light, its towns and mining camps far apart and difficult of access, and reached over heavy grades and extreme curvatures, involves an unusually heavy rate of expense, the passenger-train service in many sections yielding but a limited revenue, often not equal to the cost of operation.

The Denver and Rio Grande Railroad operates 1,630 miles of standard-gauge and 1,085 miles of narrow-gauge railroad in Colorado, Utah, and New Mexico. It is, strictly speaking, a mountain railroad.

The main line, standard gauge, from Denver, Colo., to Ogden, Utah, is 778 miles. In accomplishing this it crosses three mountain ranges, two over 7,000 feet and one over 10,000 feet above sea level, involving grades of 2, 3, and 4 per cent. The narrow-gauge line, forming a part of a second main line, crosses a range at an altitude approximately 11,000 feet. The country traversed by the remainder of the system is of the same character and makes the operation of a railway equally difficult.

To illustrate the character of these grades:

The altitude of Denver is 5,279 feet; the altitude of Palmer Lake, 52 miles away on the main line, is 7,224 feet, an ascent of nearly 2,000 feet in 52 miles.

The altitude of Pueblo is 4,668 feet; Salida is 7,038 feet; a difference of 2,370 feet in a distance of 90 miles.

Between Salida and Tennessee Pass, the altitude of the latter being 10,240 feet, the distance 66 miles, the railroad ascends 3,202 feet.

Green River has an altitude of 4,080 feet and Soldiers' Summit 7,454 feet, or 3,374 feet difference in a distance of 96 miles.

Coming east from Salt Lake City we have from Thistle Junction to Soldiers Summit a climb of 2,421 feet in 25 miles.

From Grand Junction to Tennessee Pass the distance is 169 miles and the difference in altitude 5,667 feet.

The altitude of Pueblo is 4,668 feet and Palmer Lake, 68 miles distant, 7,224 feet, showing an elevation of 2,556 feet in the 68 miles.

Salida to Marshall Pass, the elevation of the latter being 10,856 feet, it must overcome 3,818 feet in 26 miles.

It must be apparent to everyone that a rate which would be remunerative to a railroad operating in a comparatively level country where the grades are easy and one engine draws from twelve to fifteen passenger coaches would not yield operating expenses to a mountain railroad such as the Denver and Rio Grande, which with the same power can haul only five, or at the most six, coaches over these mountain ranges where the addition of another coach requires an extra engine.

It is almost of daily occurrence during the tourist season for some one of its eastern connections to deliver to the Denver and Rio Grande road a train of as many as 10 or 11 coaches, which its connection has drawn into Denver with one engine and one crew. It devolves upon the Denver and Rio Grande to furnish two engines and two crews, with the attendant additional expense, to handle the same number of coaches which have been drawn into Denver by one engine and one crew by its connection.

In order to give some idea of the sparsely-settled condition of Colorado and Utah, it is only necessary to make the following comparisons:

The area of Colorado is 103,925 square miles. The population of Colorado is not quite 600,000; less than 500,000 in the territory tributary to the Denver and Rio Grande road; this is about one-seventh the population of New York City, one-fifth that of Chicago, and scarcely one-half that of St. Louis. Many of the large cities of the East have a population much in excess of the total from which the Denver and Rio Grande draws in Colorado.

The population of Utah is less than 300,000; area, 82,000 square miles, almost twice as large as New York State, so in Utah these comparisons apply with even greater force than in Colorado.

The distance between the principal commercial centers of Colorado and those of Utah is much greater via the Denver and Rio Grande than via its principal competitor. For example, the distance from Denver to Ogden via the Denver and Rio Grande is 778 miles; via the Union Pacific, 591 miles, a difference of 187 miles. This is the avenue of much the largest volume of the Denver and Rio Grande's interstate travel. The enactment of this law would affect seriously the revenue of the Denver and Rio Grande Railroad; it would be forced either to accept a much lower rate than that named in the bill in order to meet the rate established by the bill for the short line or retire from participation in the through business. The former would certainly be disastrous, and the latter would be practically impos-

sible, owing to the fact of its having participated in that business more than twenty years, and by reason of its scenic attractions has been able to carry more than 50 per cent of that business.

To give some idea of the reductions that would be imposed upon this company by the enactment of this law, attention is called to the present rate from Denver, Colorado Springs, and Pueblo, Colo., to Salt Lake City and Ogden, Utah, namely, \$17.75; this is based on 3 cents per mile, Union Pacific Railroad short line mileage between Denver and Ogden. In order to meet commercial conditions all the Colorado cities named are grouped on the one hand, and the Utah cities are grouped on the other. The application of the rate named in the bill would establish via the short line a through rate of \$11.84 between Denver and Ogden, being a reduction of \$5.91. The Denver and Rio Grande, with its greater mileage, to meet the new rate would earn only $1\frac{1}{2}$ cents per mile. This new rate would necessarily pull down a large number of the rates at local intermediate stations.

It would be practically impossible to confine the application of the rate named in the bill to interstate travel; of necessity it must extend to local travel, as many intermediate points on the long line are affected by the through rates made to meet short-line competition.

On account of the physical condition of the territory covered by the Denver and Rio Grande Railroad, its local rates are 3, 4, and 5 cents per mile, according to the character of the country traversed.

I might say, in that connection, that part of the territory carried a 6-cent rate until last November, when it was voluntarily reduced to 5 cents.

It has been found by experience that these rates are necessary to make the operation of passenger trains at all remunerative, and still in some instances they do not more than meet the cost of operation; all are based on the physical conditions and the volume of traffic peculiar to the particular locality in which they are applied.

Its 1,000-mile book rate is \$30. This is the net rate, no refund of any kind whatever being made.

The sale of unlimited transferable mileage books, unrestricted as to trains, at the rate of 2 cents per mile, presumably for interstate travel, would defeat all effort to maintain a higher rate locally within any State. To illustrate: The main line of the Denver and Rio Grande Railroad, Denver to Ogden, is divided into three divisions, necessitating a change of conductors and crews at each division point. If a passenger desired to make a State trip from Denver to Salida and avail himself of the advantage of the 2 cent interstate rate established by the law it would only be necessary for him to tell the conductor he was going to Green River, Utah, and the conductor would detach mileage only to the end of his division, Salida. The passenger would leave the train at that point, having paid for a State ride only \$4.34, being the value of the mileage detached, the rate for which is \$6, causing a loss to the railroad of \$1.66. This would apply equally well to Grand Junction, the end of the run of the second conductor, where the rate is \$14 and the distance 450 miles, only \$9 worth of mileage being detached by the conductors, a loss of \$5 to the railroad company. If he wished to return from Salida to Denver it would only be necessary for him, in order to avail himself of the use of his interstate mileage, to tell the conductor he was going to some nearby point in Wyoming or Nebraska, again requiring the Denver and Rio Grande Railroad to accept a 2 cent

interstate mileage rate for a strictly State trip. There are a great many cases of this kind; in fact, the whole local business intermediate with two interstate points is jeopardized.

It can readily be seen if the short line rate is arbitrarily established upon a 2 cent basis and the circuitous route participates in that traffic, it must do so at a still lower rate per mile and a great shrinkage of earnings. To retire from the traffic at the same rate it necessarily closes its line to a large traveling public, which is deprived of the choice of routes and many valuable privileges, while the longer route may be the preferable one, because of its attractions, scenic and otherwise. If the circuitous route is selected it must be at a greater cost to the public. From this it can be seen that by the application of the rate named in the bill competition will be largely eliminated.

In the spring and fall especially low rates are made from the heavily-populated districts to points in and west of the Rocky Mountains with the idea of accommodating a large class of people who wish to change location and better conditions. This travel is handled on what is called a "colonist rate," and the Denver and Rio Grande Railroad alone handles from 50,000 to 60,000 of these passengers annually. In this way the railroads have been a great factor in the development of the West.

It is also the practice of western roads, during the vacation season, July to October, to make very low excursion rates to encourage tourist and pleasure travel and to educate the people to travel at a time when it is most auspicious to handle the business in large volume and sufficiently large to justify a reduction in the rate.

Carriers are enabled to do this at these seasons of the year, when all conditions are favorable to the handling of a large traffic, and further, for the reason they can throw around it safeguards to fully protect their interests in every respect.

Such a large volume of traffic can not be handled at other seasons of the year, and while it is handled at a very low rate the carrier expects to recoup through its general business during the entire year; but if a uniform interchangeable rate of 2 cents per mile is established and becomes an all around year rate, being the maximum rate for all classes of travel, the carriers can not afford to make these reductions.

It can be seen that special rates are made by the carriers to serve some useful purpose in response to public demand. They may be made less than 2 cents per mile, and frequently are, but they are measured by the needs of the situation and are not an arbitrary measure.

The ticket imposed by the bill is transferable and unlimited, and unrestricted as to trains, and the carrier is wholly unprotected. It is redeemable if presented by any person at any station in the United States, no identification of the person or the ticket being required. It may have been stolen or obtained in some fraudulent manner, but by the terms of this bill the carrier is absolutely without protection. The injustice of this must be apparent to everyone. Under the present rules of the carriers all reduced-rate interstate tickets are required to be signed by the purchaser and are redeemable only at the office of the general passenger agent of the issuing carrier when in the hands of the original purchaser. This bill provides that these 1,000-mile tickets shall be redeemed at their full face value on presentation

by bearer at any ticket office of any railroad engaged in interstate commerce.

At the smaller stations on railroads the facilities are generally inadequate to properly take care of a supply of valuable tickets. The minimum mileage ticket issued under the proposed law would be valued at \$20, a number of which would have to be kept on hand at every station, which would entail a hardship and a risk upon the companies. The railroads would be subjected to still greater risk by being compelled to keep their small stations supplied with sufficient money to redeem the tickets which might be presented. The railroad company would be without protection against fraudulently obtained genuine tickets of other railroads, and it would also be without protection against forged or fraudulently issued tickets purporting to come from other railroads.

Agents, unlike conductors, are not in the habit of handling tickets of other railroads' issue, and therefore would be entirely incompetent to judge of the genuineness of the tickets of other railroads presented for redemption.

A railroad would be compelled to honor the tickets of another railroad without reference to the responsibility of the latter, and would also be compelled to refund the value of a ticket even though issued by an irresponsible railroad.

These tickets would be good in the hands of all persons forever without identification and would operate as a sight draft on all other railroads in the United States. They could be used by railroads in distress to supply themselves with ready cash by flooding the country with their issue of tickets.

The right of the United States Government to compel one carrier to honor for passage another carrier's tickets of any kind or nature is questioned, and it certainly has less right to compel one carrier to redeem the tickets of another carrier. These matters should be left to be settled by each carrier depending upon its knowledge of the responsibility of the carrier issuing the ticket.

This law, if passed, will give great impetus to the ticket-scalping business throughout the country, the evils of which can not be estimated. Any small and irresponsible railroad could issue an unlimited number of such mileage books and distribute them for sale in every city of the United States.

A few years ago a small railroad in the Southwest on the verge of bankruptcy issued a number of interline tickets, supposedly through brokers at a reduced price; no report was made of their sales. By the time the distant railroads had presented their coupons for payment the issuing road had gone into bankruptcy and its obligation was repudiated.

All coupon tickets sold to-day by one carrier over another carrier's line are reported to that carrier and settlement is made on the report of sales made by the issuing carrier, so if the coupon of the connecting line should be lost or destroyed by the collecting carrier it is still reimbursed, as the settlement is made from the report; but the ticket provided for by the bill can not be reported and settlement must be made upon the coupons collected. In this case for its compensation the carrier must depend altogether upon its conductors and clerks to handle and make proper return to the railroad company's auditor of

the mileage coupons collected. If the mileage coupons are lost the carrier has no recourse on the issuing company.

Settlement between the carriers on mileage coupons collected could only be made through a clearing house. It is impossible to estimate the expense to which the carriers would be put to maintain a clearing house for that purpose. Some idea can be conveyed when we state there is in existence at the present time what is called "The Trans-Continental Scrip Bureau," of which ten railroads are members. It operates in the territory west of Colorado and New Mexico. It is a very small affair as compared with what a national bureau of this kind would be; still it employs thirty men in order to clear the tickets of those ten roads.

In closing, to recapitulate:

First. The bill undertakes to impose a uniform rate upon carriers operating under dissimilar conditions.

Second. It will have the effect of concentrating the travel upon short lines as against longer or more circuitous routes possessing attractions warranting their selection by the public.

Third. It deprives the traveling public of the choice of routes except at a greater cost and in that way imposes a hardship upon the class of travel that desires a choice of routes.

Fourth. It will have the effect of eliminating special rates made by the carriers at certain seasons of the year for colonization and vacation.

Fifth. It will have the effect of establishing a much lower rate than two cents per mile for interstate travel on the longer or circuitous routes.

Sixth. It can not be confined to interstate traffic and will defeat all effort to maintain a higher rate in a State where natural conditions necessitate a higher rate.

Seventh. It affords insolvent carriers or carriers in distress the means through which to raise through ticket brokers and other agencies large sums of money for their immediate wants with loss to the carrier transporting the holders of such tickets.

Eighth. It will build up the ticket-brokerage business throughout the country.

Ninth. It imposes upon the carrier a ticket which is a sight draft, without identification, upon all carriers. A draft of this character is certainly contrary to good business methods.

Tenth. It compels one carrier to honor and redeem another carrier's tickets without regard to the responsibility of the issuing carrier.

Eleventh. As the sale of these tickets can not be reported by the issuing carrier to the collecting carrier it forces the carrying railroad to depend wholly upon the collection of the mileage coupons for its compensation.

Twelfth. It will require the maintenance of a large and very expensive bureau to clear the mileage coupons collected.

Gentlemen, that is our view of the bill.

Mr. MANN. You are not in favor of the legislation, I judge.

Mr. JOHNSON. Not exactly.

The CHAIRMAN. Is there any gentleman who desires to question Mr. Johnson? If not, we will ask Mr. Sebastian to address the committee next.

[Papers filed by Mr. J. M. Johnson.]

H. R. 20153.—A bill providing for the issuance of mileage tickets by railroads engaged in interstate traffic.

ARGUMENT OF THE ST. LOUIS SOUTHWESTERN RAILWAY IN OPPOSITION
THERETO.

It is impossible to give any exact figures as to what effect the passage of this bill would have on either the gross passenger earnings or the earnings per passenger per mile of the St. Louis Southwestern Railway. The bill would necessitate our making radical reductions in our rates.

Our passenger earnings per mile of road and per passenger per mile for the fiscal years ending June 30, 1902, 1903, 1904, 1905, and 1906, are as follows:

	Per mile of road.	Per pas- senger per mile.
1902.....	\$1,055.00	\$0.0235
1903.....	1,035.00	.0244
1904.....	1,131.00	.0244
1905.....	1,256.00	.0214
1906.....	1,180.00	.0238

During this period the maximum rate per mile in the States of Missouri and Arkansas has been 3 cents; in the States of Texas and Louisiana the maximum ticket rate per mile has been 3 cents, and the train rate—that is, the cash-fare rate collected on trains—has been 4 cents per mile.

There are few commercial centers located on our rails, and the rates between such commercial centers being based on mileage and not agreed rates, as is the case between some of the larger commercial centers, such as Chicago and Kansas City and between St. Louis and Kansas City, the earnings per mile per passenger, as shown in the above statement, would fairly represent our earnings between our commercial centers, as well as on all other business.

As stated, it is impossible to furnish actual figures as to the effect this bill would have on our earnings, as our intrastate business is so closely interwoven with our interstate that the reduction of the interstate rate to 2 cents per mile would practically reduce all of our intrastate rates to the same basis.

The average earnings per passenger per mile for the past five years, with a general rate basis of 3 cents per mile in effect, has been 0.0235 cents. Assuming that the same ratio would continue under the 2-cent basis, our earnings per passenger per mile would be 0.0155. By eliminating excursion rates this might be raised somewhat, but for various reasons, under a 2-cent rate basis, our earnings could not exceed 0.0175 cents per passenger per mile.

It is manifestly unjust to require lines in the sparsely settled West to accept the same rate per mile as the lines in the closely settled sections of the East, or to require that the rate per mile between two large commercial centers, between which thousands of passengers are handled monthly, and very economically on account of the volume, shall be the same as between two way stations between which few travel. The density of travel should be taken into consideration, and the section in which passenger earnings per mile of road is approximately \$1,000 per annum should not be required to make the same rate per mile per passenger as maintains in a section enjoying passenger traffic of five or six times that amount.

It would be extremely difficult, if not impossible, to equalize mileage via the various routes. For instance, between New York and San Francisco there are dozens of routes over which passengers now travel at equal rates, varying greatly in mileage. For example:

	Miles.
Via Chicago, Omaha, and Ogden.....	3,284
Via St. Louis, Kansas City, and Ogden.....	3,403
Via New Orleans and El Paso.....	3,827
Via Chicago, St. Paul, and Portland.....	4,013

Under present conditions, the rates via all these routes being equal, each of them enjoy a share of the business, the proportion being largely due to train service, time, scenic attractions and other considerations, the mileage being no consideration.

As noted above, there is a difference of over 700 miles in these various distances, which unless some arrangement could be made to equalize—which is apparently impossible—

would give the short line an advantage of approximately \$14, enabling it to secure all of the business at the expense of the other lines, which perhaps offer the passenger equal or superior service.

An unlimited ticket, good for endless time, is extremely undesirable for many reasons, among which are: Change of ownership of the issuing road, abandonment of short railroads, difficulty of closing out the mileage account.

All States, by their statutes of limitations, recognize the desirability of limiting the life of all transactions. The District of Columbia does the same, and it seems that Congress is firmer in this belief than the legislatures of the various States, as the time limits placed on the life of judgments, notes, and open accounts in the District of Columbia is shorter than the limits in any of the States, with one or two exceptions.

The tickets being sold without limit would be a great aid to counterfeiters, as by counterfeiting the mileage of roads that had changed hands, or been abandoned, it would enable them to work for a considerable period without discovery.

The bill provides that the tickets shall be redeemed upon presentation at any ticket office of any railroad at their face value. This provision would force the railroads to do a banking business, without any of the restrictions or safeguards afforded banks. The Government might, with equal justice, require any national bank in the United States to cash a check drawn on any other national bank.

It would result in these tickets being dealt in to an enormous extent, and would require all railroads to keep in the hands of their agents a large sum of money for their redemption. It would make a ticket office a "fence" for stolen tickets. We would have no protection in the event of our making refunds on counterfeit tickets.

Under the provisions of this bill, these tickets would have to be accepted on all trains, including the excess fare train composed entirely of Pullmans, which would result in the abandonment of many desirable trains throughout the country. The bill apparently would require us to stop any train at any way station or road crossing to which an interstate passenger might desire to go. This would put an end to all fast trains.

The mileage ticket would be very susceptible to counterfeiting, and sharpers and counterfeiters could flood the country with mileage before being discovered, there being no protection whatever afforded in this respect.

To handle the accounts and settlements in connection with mileage of this character would necessitate initiating a clearing house, employing an army of clerks, which would be a very expensive proposition.

We would be obliged to honor or redeem all tickets presented, regardless of the financial standing of the road by whom issued. A small, irresponsible road could flood the market with tickets of their issue, and obtain hundreds of thousands of dollars in cash, account of which they might not settle with other lines for months; or, in some cases, the outstanding mileage of one of these small roads might amount to more than the value of the road, and in the event of such line going into bankruptcy, the lines honoring or redeeming its mileage would be subjected to great loss.

SAINT LOUIS SOUTHWESTERN RAILWAY COMPANY,
By F. H. BRITTON,
Vice-President and General Manager.

ARGUMENT OF THE TEXAS AND PACIFIC RAILWAY COMPANY IN OPPOSITION THERETO.

It occurs to me that a general law of the character and kind contemplated by this bill, to be operative alike on all roads, would at this time be very unjust and inequitable, and work a hardship upon roads situated as are Texas roads, in a country where the main railroad thoroughfares were constructed when the country was sparsely settled and the cost of construction very heavy, and the roads operated for many years at a great loss, all of which has caused such lines to be burdened with unusually heavy debt. To express it briefly, the same rule that would apply to the older States, where passenger traffic is heavy, could not, with justice, be applied to the Texas lines or other lines alike situated.

While the rate for adult passengers in the States through which the Texas and Pacific runs is 3 cents per mile, our average earnings for adult passengers is about 2½ cents per mile, including excursions and all reduced-rate tickets.

The difference in passenger earnings to the Texas and Pacific Railway under the proposed bill would be difficult to estimate. I think we are safe in saying it would entail upon us a loss of at least 10 per cent of our local passenger earnings. On our through traffic we do not earn much in excess of 2 cents, but our local rate is 3 cents. So that would be very seriously affected.

The total local passenger earnings for the year 1905 were only \$1,881,982.37. The local earnings for the past five years have been 2.53 cents per mile.

This company has none of the advantages that are to be found in the older States by way of having commercial centers, where the frequent travel between the cities has justified the roads in putting in a lower rate than the regular tariff. In fact, there are only two cities in Texas, on this line, where there are any reduced rates offered, and these are Dallas and Fort Worth. Here a rate of 1 cent per mile, in mileage books, is offered to the public, but this is done in order to meet competition of an interurban line, the distance between the two cities being only 32 miles. This is practically suburban business.

It appears to me that the rule is one inapplicable and inequitable for the reason that it is to apply to all lines doing an interstate business, and all lines affected are not on a parity, as many of them are situated in and run through thickly-settled communities, where the expense of operating is less and the revenues are more; but situated as is this line, in a sparsely-settled country, and being burdened with a heavy debt, it is compelled to earn more money in order to meet the interest on that debt. This, too, at a time when the country through which it runs is in its infancy in the matter of development, and better facilities are from year to year being demanded, and the money for furnishing such facilities must be made wholly out of the earnings. As an example: The early Texas roads were built at a time when there was but little freight and fewer passengers to be carried. They were pioneers in the country, and were constructed when there was no expectation of early profit, but development alone could bring returns to the investor. They have been maintained at heavy expense for many years, and have sustained correspondingly heavy losses. These facts being known to investors, it necessarily required them to dispose of securities at less than their face value and has encumbered these roads with a large indebtedness upon which investors are now hoping, after many years, to obtain at least a small interest. For a quarter of a century there was heavy loss in operation of the Texas and Pacific Railway and maintaining the same. The time has now arrived when the population is increasing, and the public are demanding better facilities, so that in the interest of the property, as well as to meet the public demands, betterments must be made, new and better equipment must be had, and all of these requirements must be had out of the earnings of the road. Up to this time the Texas and Pacific Railway has never been able to pay any dividend upon its stock.

There is another objection to this bill when it is undertaken to apply it to Texas roads. The country is being rapidly settled up and business is increasing, better equipment and better roadbed is demanded and required. The money for this, as hereinbefore stated, must come from the earnings, as under the laws of Texas this company is without right, power, or authority to increase its bonded debt or its capital stock for the purpose of making betterments or improvements to its property, so in order to provide necessary funds for improving its property, as required by surrounding conditions and the advancement and progress of the State, and in the interest of the property and the people, it is necessary that its earnings should not be reduced, and at this time we could not do justice to the property or the public if the rate was reduced.

It should therefore be obvious to a fair-minded legislative body that such a reduction of passenger revenue would be an injury to the interests rather than a benefit to those whom they seek to aid. We in Texas are not in position as yet to be classed with lines of roads in the older States of much denser population, so for these reasons it must be very obvious to all thinking men that an act of the kind contemplated would be inequitable and unjust to lines situated like ours.

TEXAS AND PACIFIC RAILWAY COMPANY,
By L. S. THORNE,
Vice-President and General Manager.

STATEMENT OF MR. JOHN SEBASTIAN, TRAFFIC MANAGER OF THE ROCK ISLAND RAILROAD.

Mr. SEBASTIAN. Congressman Mann asked a question this morning in regard to the round-trip rate from Chicago, \$110 from Chicago. I only want to call attention to the fact that a business like that is not a profitable business. It is true that the rate gets down pretty nearly the 2-cent basis, but the only reason I can give is that one road does it and the others have to. But there is a good deal of our business on which we do not, of course, begin to get the 3-cent rate. We make rates into Texas from our section of the country, from Chicago, for instance, at a round trip very much lower than the one-way rate. We

do it for development purposes. When it comes to development work we do not consider the passenger rates, and it is for the future development of our property that we give these low rates, to build up that section of the country.

The only other point I want to bring up, Mr. Chairman, is that I lay a good deal of stress on the fact that this question, it seems to me, is one of a great deal of importance. It is one which is quite complicated, in a way, and it seems to me a fit subject for thorough consideration on the part of the Interstate Commerce Commission, the tribunal which you have established for the purpose of considering such questions. I believe that that is all that I have to say.

Mr. MANN. What would be the effect in the State of Illinois, say, on the Rock Island system, of the reduction of the rate to 2 cents a mile?

Mr. SEBASTIAN. The effect in our western country, it seems to me, would be very disastrous. If we put in an interstate rate as between Western States, between Illinois and the State of Iowa because it will spread in all the Western States out there. It is a good deal different from making interstate rates on long-haul business, like a rate from New York to San Francisco. Much of the business we get now is on the 2-cent basis. We do not get 2 cents on an Omaha ticket, for instance, to Chicago, and if you work that so that it will get in this sparsely-settled country, from Kansas into Nebraska, or from Illinois into Iowa, the result is going to be disastrous, and as Mr. Nicholson says, I can not figure how we could keep out local legislation on the 2-cent basis. That is sure to follow.

Mr. MANN. Are you not liable to have local legislation in Illinois and Iowa both fixing those 2-cent fares?

Mr. SEBASTIAN. I do not know. The question is up there in these Western States. I do not know what the result is going to be. I can not tell. I do know that it will be very disastrous to us.

Mr. MANN. Disastrous in those States, do you mean, or disastrous over the road, if the 2-cent fare should extend over the entire road?

Mr. SEBASTIAN. It would be very disastrous to our company, I think. I want to lay particular stress, if you will excuse me, on this branch-line service. I know of one line where we do not get 2 cents a mile. We go into Exline, Kans., where there are 4 roads. We do not have to do what we do there, but we do it because we want to help those communities, and we keep up the service to as high a grade as possible in every one of our towns.

Mr. STEVENS. Suppose some of those States should enact a 2-cent law, and some of the other States through which you run would not enact a 2-cent law, would you give any different service according to the two classes of rates?

Mr. SEBASTIAN. I do not think we would unless we were forced to do it.

Mr. STEVENS. Then the principal result would be that if one of these States passes a 2-cent rate bill, the others have got to protect their own people, have they not?

Mr. SEBASTIAN. I suppose it is a natural supposition that such a thing is not likely to follow. I do not know what they will do.

Mr. STEVENS. If that situation exists by which one has to do it if the others do, would this legislation impose an additional burden on you?

Mr. SEBASTIAN. You mean if they make a 2-cent rate?

Mr. STEVENS. If the States of Illinois and Iowa and Missouri, through which your railroads run, pass 2-cent bills and the other States none and the other States then receive a discrimination against those if they do not protect themselves by passing similar legislation, they will pass similar legislation; and if those States through which your lines run pass such legislation, would this legislation impose any additional burden? It would not make any difference to you, would it?

Mr. SEBASTIAN. Possibly not, if we had a 2-cent rate in every State which we traverse.

Mr. MANN. Take the case of a State which does not affect your rate, Ohio, that passed a 2-cent rate. The papers stated that they were going to contest it, but after it was passed they acquiesced in it. There may be some reason why Ohio should have a lower rate than Pennsylvania or Indiana or Illinois; but if the railroads are carrying passengers at a loss in Ohio at 2 cents, but make it up on the passengers carried in Indiana or Illinois or Pennsylvania, it would look as though that was hardly fair to the people outside of Ohio.

The same thing would be true in your portion of the country if Illinois put the 2-cent rate into effect, for instance.

Mr. SEBASTIAN. Well, of course, our arguments all get down to the basis of the country that can not stand the 2-cent basis.

Mr. ESCH. In that connection, do you want to express any views on the question asked Mr. Nicholson as to whether we in considering the merits of this bill would have a right to consider freight earnings?

Mr. SEBASTIAN. I quite agree with Mr. Nicholson that they are so widely different that it would be pretty hard to couple those things together, although I do not know anything about freight business and therefore do not like to express an opinion.

Mr. ESCH. Very well.

Mr. SEBASTIAN. I do not know anything at all about freight business.

Mr. RUSSELL. Suppose it should be the view of this committee that a 2-cent rate bill, a flat rate, would be unjust all over, and they should wish to limit its operation to certain roads, do you know any good way that that could be done in general terms?

Mr. SEBASTIAN. I hardly know how you would work that out.

Mr. RUSSELL. Would there be anything improper in doing it by describing certain roads that have a gross earning capacity above a certain figure per mile?

Mr. SEBASTIAN. I should say it would be rather difficult to figure out.

Mr. MANN. You are familiar with the law of Illinois on that subject, I presume—I do not know whether you ever had your attention attracted to it—where railroads are divided into different classes in accordance with their earnings. For instance, take your rate in Illinois.

Mr. SEBASTIAN. Do you mean for taxing purposes?

Mr. MANN. No; I mean for the purpose of fixing the rate of fare. Your rate in Illinois under the railroad and warehouse commission is 3 cents a mile—that is, it is a permissible rate. Some railroads have a rate of 4 cents a mile. That is a law permitting a classification of railroads.

Mr. SEBASTIAN. Yes.

Mr. MANN. Do you know how far you are affected by that?

Mr. SEBASTIAN. We are not affected by it at all.

Mr. MANN. Of course, you simply have the one fare, the one rate, 3 cents?

Mr. SEBASTIAN. Three cents.

Mr. MANN. None of your branch roads charge 4 cents?

Mr. SEBASTIAN. No, sir; we do not charge 4 cents anywhere in Illinois.

Mr. RYAN. As a matter of fact, is it not the freight and not the passenger business on every railroad that is the revenue-producing feature?

Mr. SEBASTIAN. It is so stated. The freight, of course, is the principal factor for getting a revenue. I do not think the passenger business is considered profitable in most sections of our country.

The CHAIRMAN. From the view-point of the passenger department of the railroad, which would be the preferable legislation, that proposed by this bill or a uniform 2-cent rate for all interstate passenger traffic?

Mr. SEBASTIAN. I would prefer not to answer that question, Mr. Chairman. It is a matter that I would have to give some thought to.

The CHAIRMAN. The latter would do away with very many of the objections urged by the gentleman who preceded you. Four or five objections that he urged would be removed by the latter form of legislation?

Mr. SEBASTIAN. Yes, sir.

The CHAIRMAN. All those questions involving fraudulent tickets would be done away with?

Mr. SEBASTIAN. Yes, sir.

The CHAIRMAN. All those questions involving the fraud of the bankrupt railway would be done away with?

Mr. SEBASTIAN. I suppose either bill would have a good many objectionable features to the railroads out in our country.

The CHAIRMAN. You do not think, as a passenger agent—and we hear your name very often very highly spoken of in that connection—that you would have any views upon the subject?

Mr. SEBASTIAN. No, sir.

The CHAIRMAN. As to the relative merits of the two classes of legislation?

Mr. SEBASTIAN. No, sir; I do not think I would like to express any opinion on this.

Mr. SHERMAN. Can you think of any objection to the flat 2 cents a mile rate for interstate business other than the rate itself?

Mr. SEBASTIAN. Well, any flat rate of 2 cents a mile, I think I have stated, would be objectionable from the standpoint of being unprofitable.

Mr. SHERMAN. Yes; that is, the rate itself?

Mr. SEBASTIAN. Yes.

Mr. SHERMAN. Can you think of any other objection?

Mr. SEBASTIAN. We do not get 2 cents a mile. That is chief objection.

The CHAIRMAN. What would you say to this bill with a modification fixing the price of those mileage tickets, we will say, at \$30, \$25,

\$20, and then giving to the Interstate Commerce Commission the power to establish zones in which some one of those rates might be applicable?

Mr. SEBASTIAN. On the broad principle, first, of the universal mileage ticket I think that would be a bad thing. We already have zones out in our country in handling mileage tickets, as stated by Mr. Nicholson. It is divided up into some three or four different groups. We have east of the Missouri River the 2-cent rate net on mileage. West of the Missouri River we have $2\frac{1}{2}$ cents. I think anything less than the rates which we now have in effect would not be quite right to the railroads.

The CHAIRMAN. Has anybody else any questions to ask? Does any gentleman desire to ask any questions?

Mr. STEVENS. You have had a long experience in passenger traffic. In your experience have your rates ever been fixed on the amount of capitalization or the issue of bonds for your road?

Mr. SEBASTIAN. Not to my knowledge.

Mr. STEVENS. Have you taken into consideration those factors?

Mr. SEBASTIAN. It never has been taken into consideration, so far as my knowledge goes; but I would not know anything about it.

Mr. STEVENS. Have you taken that into consideration in fixing rates on traffic?

Mr. SEBASTIAN. No, sir.

The CHAIRMAN. Have you any method—any uniform method—by which passenger rates are established by your company?

Mr. SEBASTIAN. Yes, sir; we have in local territory. We will make a 2-cent basis, for instance, in Illinois and Kansas and various States. On interstate rates the rates are made up on short-line mileages, as a rule, and the long lines have to meet those rates, which gives them in most cases, say, $2\frac{1}{2}$ cents or 2 cents—as in the case of the rate from Chicago to San Francisco. The rate from Chicago to San Francisco is made via the short line to Omaha, and thence by the Union Pacific and Southern Pacific direct line to San Francisco. This route from Chicago to San Francisco, the Atchison, Topeka and Santa Fé, the Rock Island with its line through El Paso, the Southern Pacific rate applying over the Illinois Central to New Orleans and thence to Los Angeles and up to San Francisco, are all equal with the short line via Omaha and are at a very much less rate per mile than by the direct line through Omaha. That is the way our rates are constructed.

Mr. MANN. How is the rate from Chicago to San Francisco fixed?

Mr. SEBASTIAN. At $2\frac{1}{2}$ cents.

Mr. MANN. Is that fixed upon the basis of 3 cents a mile for the short route?

Mr. SEBASTIAN. No, sir; not on 3 cents a mile; I think it is $2\frac{1}{2}$ cents.

Mr. BOYD. $2\frac{1}{2}$ cents is the uniform mileage?

Mr. SEBASTIAN. There is a difference of between 40 and 50 miles between the long run and the short run.

The CHAIRMAN. There are some routes between Chicago and Kansas City less than 500 miles?

Mr. SEBASTIAN. Yes; the Santa Fé route is 458 miles.

The CHAIRMAN. What is the longest route that participates in that?

Mr. SEBASTIAN. I should think about 540 miles.

The CHAIRMAN. And so the passenger agents agree among themselves upon the average of 500 miles, do they?

Mr. SEBASTIAN. Yes, on short lines.

The CHAIRMAN. Yes; 50 miles in excess of the short line.

Mr. SEBASTIAN. Yes.

The CHAIRMAN. And 40 miles less than the long lines?

Mr. SEBASTIAN. Yes, sir. Those rates, however, were established before the construction of the short line.

Mr. MANN. How do they get a basis of $2\frac{1}{2}$ cents?

Mr. BOYD. It was made before the Santa Fe was built, and also before these long routes were established, and the average was about 500 miles at the time the rate was established.

The CHAIRMAN. That is for all the routes?

Mr. BOYD. Yes, and substantially at that time the mileage was about $2\frac{1}{2}$ cents, and they fixed it on the basis of the mileage rate.

Mr. MANN. The local rate is more than $2\frac{1}{2}$ cents; it is 3 cents in both States.

Mr. SEBASTIAN. My recollection is that these rates were made between Chicago and Omaha. These routes were constructed to Omaha before they were constructed to Kansas City, and Kansas City carries a common rate with Omaha. I think that is the way that came about.

The CHAIRMAN. It was an arrangement to prevent rate wars?

Mr. SEBASTIAN. Not exactly to prevent rate wars, but the Omaha gateway carried the same as the Kansas City gateway, and the other rates made through either gateway are just the same.

Mr. MANN. The Omaha rate is based partly, I suppose, upon rates to the far West?

Mr. SEBASTIAN. Yes, sir.

The CHAIRMAN. Does any other gentleman desire to proceed now?

Mr. PAYSON. I am ready to be heard, Mr. Chairman.

STATEMENT OF HON. L. E. PAYSON.

Mr. PAYSON. Mr. Chairman, having been a fairly close observer of what has been transpiring in the way of legislation in Congress generally for the last fifteen years, I am justified in saying that within the walls of this room there has never been a question discussed of more importance than this, more far reaching in its consequences, more disastrous if it should happen to be sustained, and should be decided wrongly. My only fear is that I may not be able to do the subject that I have in hand the justice that its importance requires. At the threshold, I do not propose to deal with questions of figures. My purpose is to deal with the legal question, the power of Congress to enact the law requiring mileage tickets at reduced rates. When Mr. Nicholson, standing at the end of the table where I stand now, made the observation that he was only a layman; that he wanted to make a certain remark that struck him with a good deal of force, I was reminded of what was said in the early days of my experience as a lawyer in Illinois, where a circuit judge said that the common law was only really common sense expressed; that was about all there was to it. And when Mr. Nicholson said, while not being a lawyer, he felt like saying this; that the commercial traveler or the man who had \$20 had no more right to purchase one of these tickets

at the reduced rate than the poor man, he simply uttered what is the law of the land today.

More formally expressed, two of the bills before you today—I refer now to the provisions of the two bills relating to mileage books, H. R. 20153 and H. R. 21572—are absolutely unconstitutional. The Congress has no power to pass them. The courts would never enforce them. That has been expressly decided by the highest court in the United States in one case to which I shall presently refer, and affirmed by the unanimous opinion of that same court in another case. So at the outset I do not address myself to the different provisions of these bills; but to get the matters in a consecutive way before the committee, I address myself to the law of the case first.

Mr. Sherman's bill, H. R. 20153, requires all roads engaged in interstate commerce to issue at all stations mileage books not less than 1,000 miles nor more than 5,000 miles, at the rate named, 2 cents per mile, good on all trains upon any railroad in the United States. I do not discuss those questions now. They come in as incidental. But I shall be very glad to address myself to those propositions later, as well as to the provisions in the bill, which involve the right of Congress to make and enforce contractual relations unwillingly between the railroads of this country by compelling acceptance and redemption of the tickets of roads other than their own. I will say simply in passing, and produce the authorities later, that that has been expressly decided adversely to that proposition by two courts in the United States, the main case being in Massachusetts (160th Massachusetts, p. 62), which I will produce before I conclude what I have to say.

Now, first, as to the power of Congress. I refer, first, to what is known among railroad men as the "Lake Shore case," the case of the Lake Shore and Michigan Southern Railway Company v. Henry C. Smith, reported in 173 U. S., at page 863. The syllabi of the case express very clearly the propositions decided, but not the arguments upon which they are based. The different syllabi are these:

1. A State may provide by legislation for maximum rates of charges for railroad companies, provided they are such as will admit of the carrier earning a compensation just to it and to the public, and whether they are or not is a judicial question.

2. The power to fix maximum rates and charges for railroad transportation does not include the right to compel a discrimination in rates in favor of those who buy thousand-mile tickets.

3. An opportunity to purchase a thousand-mile ticket for less than the standard rate is not a "convenience" within the rule that the legislature may make regulations of the business of carriers to provide for the safety, health, and convenience of the public.

4. The power of the State legislature to enact general laws regarding a company and its affairs does not include the power to compel it to make an exception in favor of a particular class, and to carry members of that class at a less sum than those who are not such members.

5. The voluntary sale of 1,000-mile tickets good for a year from the time of their sale does not furnish a criterion for the measurement of legislative power to require the sale of 1,000-mile tickets, or a standard by which to measure the reasonableness of legislative action in that matter.

6. The Michigan statute requiring 1,000-mile tickets to be sold by railroad companies for less than the ordinary rates of fare for use by the purchaser and his wife and children, if named on the ticket, and making them valid for two years after date of purchase, is a violation of the constitutional rights of the railroad companies to due process of law and the equal protection of the laws.

That case, Mr. Chairman, was this. The Lake Shore road was chartered by the State of Michigan. It had in its charter a provision allowing it to fix maximum rates at not exceeding 3 cents a mile.

The original company, chartered by the State, was succeeded by the plaintiff in error in this case. The legislature later made a provision requiring the issue and sale of mileage tickets good for 1,000 miles. That these mileage tickets should be sold at the rate of 2 cents a mile, good for two years, unused portion redeemable.

Two contentions were made. First, that that provision in the original charter was of that contract nature that the State, acting through its legislature, could not interfere with the naming as the maximum rate, 3 cents a mile.

That question was disposed of adversely to the railroad company, and the only remaining question to be decided was whether or not legislation requiring this privileged sale of 1,000-mile tickets at this reduced rate was valid, the supreme court of the State having decided that the legislature had an undoubted power to fix maximum reasonable rates. Now, the reasoning in the Lake Shore case and its decision applies here, and in my judgment settles absolutely the lack of power in Congress to pass these two bills. Of course, the decision of the Supreme Court should govern the action of this committee.

After disposing of the question, as I have said, as to whether or not the 3-cent provision in the charter of the company amounted to a contract between the two which could not be interfered with by the legislature, the court said:

The question is presented in this case whether the legislature of a State, having power to fix maximum rates and charges for the transportation of persons and property by railroad companies, with the limitations above stated, and having power to alter, amend, or repeal their charters, within certain limitations has also the right, after having fixed a maximum rate for the transportation of passengers, to still further regulate their affairs and to discriminate and make an exception in favor of certain persons and give to them a right of transportation for a less sum than the general rate provided by law.

It is said that the power to create this exception is included in the greater power to fix rates generally; that having the right to establish maximum rates, it therefore has power to lower these rates in certain cases, maintaining them or permitting them to be maintained at a higher rate in all other cases. It is asserted also that this is only a proper and reasonable regulation.

It does not seem to us that this claim is well founded. We can not regard this exceptional legislation as the exercise of a lesser right which is included in the greater one to fix by statute maximum rates for railroad companies.

May I interrupt myself long enough to say that in every attempt by any legislative authority to regulate railroad rates in this country the power to regulate is always restricted to "reasonable maximum rates," and that must be kept in view all the way through this discussion (reading):

The latter is a power to make a general rule applicable in all cases and without discrimination in favor of or against any individual. It is the power to declare a general law upon the subject of rates beyond which the company can not go, but within which it is at liberty to conduct its work in such a manner as may seem to it best suited for its prosperity and success.

In order that this opinion as I read it further may be thoroughly appreciated by members of the committee, if they are not familiar with it, I may say that the court makes this clear distinction, that there are very many things that the railroad company may do of its own option, for its own purposes, for its own convenience and its own good, which the legislative authority would be absolutely powerless to compel it to do. That is to say, it may make excursion rates, as the Baltimore and Ohio does to a little summer place at Bay Ridge, and fix the rate at a half a cent per mile. It is none of the business of

Congress whether it does it or not. It may do it, but it could not be compelled to do it. So as to "party rates" to ten or more on one ticket, etc., (reading:)

This is a very different power from that exercised in the passage of this statute. The act is not a general law upon the subject of rates, establishing maximum rates which the company can in no case violate. The legislature having established such maximum as a general law, now assumes to interfere with the management of the company while conducting its affairs pursuant to and obeying the statute regulating rates and charges, and notwithstanding such rates it assumes to provide for a discrimination, an exception in favor of those who may desire and are able to purchase tickets at what might be called wholesale rates—a discrimination which operates in favor of the wholesale buyer, leaving the others subject to the general rule. And it assumes to regulate the time in which the tickets purchased shall be valid and to lengthen it to double the period of the railroad company has ever before provided. It thus invades the general right of a company to conduct and manage its own affairs, and compels it to give the use of its property for less than the general rate to those who come within the provisions of the statute, and to that extent it would seem that the statute takes the property of the company without due process of law. We speak of the general right of the company to conduct and manage its own affairs; but at the same time it is to be understood that the company is subject to the unquestioned jurisdiction of the legislature in the exercise of its power to provide for the safety, the health, and the convenience of the public, and to prevent improper exactions or extortionate charges from being made by the company.

Skipping a little that has no application to the present condition, I will read further:

The right to claim from the company transportation at reduced rates by purchasing a certain amount of tickets is classed as a convenience. As so defined, it would be more convenient if the right could be claimed without any compensation whatever. But such a right is not a convenience at all within the meaning of the term as used in relation to the subject of furnishing conveniences to the public. And also the convenience which the legislature is to protect is not the convenience of a small portion only of the persons who may travel on the road, while refusing such alleged convenience to all others, nor is the right to obtain tickets for less than the general and otherwise lawful rate to be properly described as a convenience. If that were true, the granting of the right to some portion of the public to ride free on all trains and at all times might be so described. What is covered by the word "convenience" it might be difficult to define for all cases, but we think it does not cover this case. An opportunity to purchase a thousand-mile ticket for less than the standard rate we think is improperly described as a convenience.

The power of the legislature to enact general laws regarding a company and its affairs does not include the power to compel it to make an exception in favor of some particular class in the community and to carry the members of that class at a less sum than it has the right to charge for those who are not fortunate enough to be members thereof.

There is this whole case in the last six lines of this opinion, because the legal rates under the Interstate Commerce Act for passenger traffic as well as the legal rates for the transportation of freight, are the schedules which are filed with the Interstate Commerce Commission, and which are approved by them. These stand as the legal charges until otherwise ordered by the Commission itself in due course of procedure. Every railroad company in the country with its main and branch lines where they are operated under separate organizations, has filed its schedules with the Interstate Commerce Commission. The passenger rates are in no case less than three cents, and run from that up as high as eight cents per mile. Those rates have all been approved, and are legal rates today, until they shall be changed in some way. We have the right to charge those rates, and they are presumed to be legal maximum reasonable rates for the service which we render in passenger traffic.

The Supreme Court proceeds, emphasizing what it has said before:

The power of the legislature to enact general laws regarding a company and its affairs does not include the power to compel it to make an exception in favor of some particular class in the community and to carry the members of that class at a less sum than it has the right to charge for those who are not fortunate enough to be members thereof. This is not reasonable regulation. We do not deny the right of the legislature to make all proper rules and regulations for the general conduct of the affairs of the company, relating to the running of trains, the keeping of ticket offices open and providing for the proper accommodation of the public.

This act is not like one establishing certain hours in the day during which trains shall be run for a less charge than during the other hours. In such case it is the establishing of maximum rates of fare for the whole public during those hours, and it is not a discrimination in favor of certain persons by which they can obtain lower rates by purchasing a certain number of tickets by reason of which the company is compelled to carry them at the reduced rate, and thus, in substance, to part with its property at a less sum than it would be otherwise entitled to charge. The power to compel the company to carry persons under the circumstances as provided for in this act, for less than the usual rates, does not seem to be based upon any reason which has hitherto been regarded as sufficient to authorize an interference with the corporation, although a common carrier and a railroad.

The act also compels the company to carry not only those who choose to purchase these tickets, but their wives and children, and it makes the tickets good for two years from the time of the purchase. If the legislature can, under the guise of regulation, provide that these tickets shall be good for two years, why can it not provide that they shall be good for five or ten or even a longer term of years? It may be said that the regulation must provide for a reasonable term. But what is reasonable under these circumstances? Upon what basis is the reasonable character of the period to be judged? If two years would and five years would not be reasonable, why not? And if five years would be reasonable, why would not ten? If the power exist at all, what are the factors which make it unreasonable to say that the tickets shall be valid for five or for ten years? It may be said that circumstances can change within that time. That is true; but circumstances may change within two just as well as within five or ten years. There is no particular time in regard to which it may be said in advance and as a legal conclusion that circumstances will not change. And can the validity of the regulation be made to depend upon what may happen in the future, during the running of the time in which the legislature has decreed the company shall carry the purchaser of the ticket? Regulations for maximum rates for present transportation of persons or property bear no resemblance to those which assume to provide for the purchase of tickets in quantities at a lower than the general rate, and to provide that they shall be good for years to come. This is not fixing maximum rates, nor is it proper regulation.

The right claimed by these bills is here clearly denounced.

The Court continues:

It is an illegal and unjustifiable interference with the rights of the company.

If this power exist, it must include the right of the legislature, after establishing maximum freight rates, to also direct the company to charge less for carrying freight where the party offering it sends a certain amount, and to carry it at that rate for the next two or five or ten years. Is that an exercise of the power to establish maximum freight rates? Is it a valid exercise of the power to regulate the affairs of a corporation? The legislature would thus permit not only discrimination in favor of the larger freighter as against the smaller one, but it would compel it. If the general power exist, then the legislature can direct the company to charge smaller rates for clergymen or doctors, for lawyers or farmers or school teachers, for excursions, for church conventions, political conventions, or for all or any of the various bodies that might desire to ride at any particular time or to any particular place.

If the legislature can interfere by directing the sale of tickets at less than the generally established rate, it can compel the company to carry certain persons or classes free. If the maximum rates are too high in the judgment of the legislature, it may lower them, provided they do not make them unreasonably low, as that term is understood in the law; but it can not enact a law making maximum rates, and then proceed to make exceptions to it in favor of such persons or classes as in the legislative judgment or caprice may seem proper. What right has the legislature to take from the company the compensation it would otherwise receive for the use of its property in transporting an individual or classes of persons over its road, and compel it to transport them free or for a less sum than is provided for by the general law? Does not such

an act, if enforced, take the property of the company without due process of law? We are convinced that the legislature can not thus interfere with the conduct of the affairs of corporations.

Further down, stating another phase of the argument in connection with it, this is the conclusion of the court:

This argument also loses sight of the distinction we made above between the two cases of a general establishment of maximum rates and the enactment of discriminatory, exceptional, and partial legislation upon the subject of the sale of tickets to individuals willing and able to purchase a quantity at any one time. The latter is not an exercise of the power to establish maximum rates

Now, without unduly taking your time, Mr. Chairman, Mr. Justice Peckham in writing this opinion seems to think that it is impossible to justify this class of legislation, emphasizing and restating the argument and emphasizing all the questions which cropped out in the argument all the way through. In paragraph 3 the same ideas which I have read are expressed and enlarged upon.

It appears from the opinion in that case that three of the judges dissented. It does not appear what the ground of the dissent was, but it is talk around the clerk's office that the dissent was upon the ground that the subsequent action of the legislature in declaring a lower rate than 3 cents was an improper interference with the contract rights of the railroad under the charter as against the State.

But this same question was before the Supreme Court again, and the rule in the Lake Shore case emphatically affirmed in *Wis. &c. R. R. v. Jacobson* (179 U. S., 288).

In the State of Virginia that same question was up recently. The question was there presented to the court as to whether or not the action of the State railway commission was legal, which fixed a 2-cent rate for a mileage ticket of 500 miles and over, where the maximum rate of the company for general travel was 3 cents per mile and whether a mandamus would lie to compel the railroad company to accept that reduced rate upon this mileage ticket. The supreme court of Virginia decided, being governed by the decision of the supreme court which I have just read in the Lake Shore case, exactly the same way, of course. Of course, it is the settled law of the land. In that opinion was cited the case to which I want to call the attention of the committee, of the Wisconsin M. and P. Railroad Company *v. Jacobson*, reported in 179 U. S., 288, in which all the judges concurred. This is the language of the court in the Jacobson case, referring to the decision in the Lake Shore case, decided at the former trial:

The distinction between this case and that of the Lake Shore M. & S. Railroad Company *v. Smith* is a very plain one.

There we held that the statute in question was not a reasonable regulation of the business of the company; that it was the exercise of a pure, bald, and unmixed power of discretion in favor of a few persons having occasion to travel on the road, permitting them to do so at a less expense than others provided they could buy a certain number of tickets at one time.

No language could be plainer; nothing could be more emphatic. They say:

There we held that the statute was not a reasonable regulation of the business of the company; that it was the exercise of a pure, bald, and unmixed power of discretion in favor of a few persons having occasion to travel on the road permitting them to do so at a less expense than others, provided they could buy a certain number of tickets at one time.

It was not legislation for the safety, health, or convenience of the public, "but was an arbitrary enactment in favor of the persons spoken of who in the legislative judgment should be carried at a less expense than the other members of the community, and there was no reasonable ground upon which the legislation could be rested unless the simple decision of the legislature should be held to constitute such reason, which it did not."

Mr. Chairman, it seems to me upon the law question pertaining to this mileage ticket—

Mr. GAINES. In some of the States have they not required that the railroads should carry free public officers?

Mr. PAYSON. I do not know; I can not state as to that.

Mr. GAINES. I think they have in New Jersey.

Mr. PAYSON. I do not know.

Mr. SHERMAN. It is so in New York as to the members of the State commission and all the employees.

Mr. PAYSON. It may be so, but if it is so it has never been tested so far as I know. It would be a matter of so trivial importance that it would justify the raising of the question on sentimental grounds; and second, it has been only such a short time that people have engaged that this humanitarian work has been present in legislative matters that perhaps they should be carried as a matter of courtesy by the railroads anyway.

Mr. GAINES. It was put on the ground, I believe, that they were public officers.

Mr. PAYSON. Perhaps so. But I do not think that these finer distinctions as to what may or may not be done, or may or may not be permitted to be done, by the railroad company on other lines ought to be permitted to trench upon the question here, which is solely the question whether a reduced rate upon a mileage ticket be enforced by law in passenger traffic. It is not allowed in freight transportation.

Mr. MANN. Does not every railroad in the land make a difference between carload lots and less than carload lots?

Mr. PAYSON. But not between individuals having carloads lots and individuals having less than carload lots.

Mr. MANN. No; it does not make any distinction between individuals in that way.

Mr. PAYSON. No, but these bills propose that. But there is a distinction between you as a rich man and me as a poor man. But this matter of carload lots is not the question here. It is as to the discrimination in favor of a class, giving it reduced rates in railroad transportation, and before I am through, if the committee will honor me with its attention, I shall have something to say in regard to the passenger traffic upon the one side and freight transportation upon the other side, and I wish to answer the question of Mr. Esch and the question asked by some of the other gentlemen. But to take that up now would require me to depart from the order that I have fixed in my mind for the presentation of this matter.

The CHAIRMAN. Will you be able to finish to-night?

Mr. PAYSON. No, I do not think so.

At 4.20 o'clock p. m. the committee adjourned until to-morrow, Wednesday, January 9, 1907, at 10.30 o'clock a. m.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES.*Washington, D. C., Wednesday, January 9, 1907.*

The committee this day met at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. We are now ready to proceed, Mr. Payson.

STATEMENT OF MR. LEWIS E. PAYSON—Continued.

MR. PAYSON. Mr. Chairman and gentlemen of the committee, at the adjournment yesterday I had proceeded to give the committee the results of some researches on the question of the constitutionality of the Sherman and Adamson bills. I cited, as the committee will remember, the decision in the Michigan case in 173 U. S. The doctrine laid down there was reaffirmed and emphasized in the Jacobsen case, in 179 U. S., as I showed. I now present also upon the same question a decision in the case of *Beardsley v. The New York, Lake Erie and Western*, found in the 162 N. Y., at page 230. The syllabus of the case expresses everything that is in it, so I need read only that (reads):

Mileage-book act unconstitutional as to existing corporations.—The mileage-book act (L. 1895, ch. 1027), requiring railroad companies to issue mileage books under a penalty for refusal to do so, is unconstitutional as to corporations existing at the time of its enactment, since the statute is an illegal invasion of the property rights of such corporations, as declared by a decision of the United States Supreme Court.

Beardsley v. N. Y., L. E. and W. R. R. Co. (15 App. Div., 251), reversed. (Argued January 29, 1900; decided March 2, 1900.)

In the opinion occur quotations made from the decision in the *Lake Shore* case. The decision proceeded solely upon the ground that the statute was an illegal invasion of the property rights of the company.

Now, it is only right and proper that I should say that one of the judges dissented, but it was concurred in by the others.

MR. KENNEDY. What case is that?

MR. PAYSON. The case of *Beardsley*, respondent, *v. The New York, Lake Erie and Western Railroad Company*, found in the 142 N. Y., at p. 230.

The Chairman, who at the moment is absent, asked that somebody who would present legal arguments against these bills address himself to the proposition as to the constitutional power of Congress to interfere and compel practically contractual relations between different corporations without their agreement or consent in this, that the tickets proposed to be issued should be arbitrarily accepted by other roads than that of the issuing carrier. I said that that question had been expressly decided, and I call the attention of the committee to a decision in the 160 Mass., at page 62. The case is *The Attorney-General, etc., v. The Old Colony Railroad Co.* So much of the different syllabi as apply to this question I will read:

A statute which authorizes one railroad to determine the conditions on which another railroad must carry passengers and compels one railroad to carry passengers on the credit of another is unconstitutional. By Field, C. J., Allen and Morton, JJ. Holmes and Knowlton, JJ. dissenting.

If it be assumed that, under the power to regulate the fares of common carriers of passengers, the Legislature can require the passengers to be carried before the fares have been actually paid in money, the security for the ultimate payment of the fares in money ought to be as certain as that required when private property is taken for public uses, and a statute which does not provide adequate security is unconstitutional.

Again, on the bottom of the page—

The railroad commissioners were authorized in their discretion, on petition, to exclude any railroad from the provisions of the act. Held, by Field, C. J., Allen and Morton, JJ., that the statute required a railroad company to transport passengers and receive therefor tickets which merely gave separate causes of action against another railroad company, and provided no security that they would be redeemed in money by the railroad issuing them when presented for redemption, although they might be used for transportation long after they were issued; that the company issuing tickets might impose upon other railroads duties in the carriage of passengers different from those it assumed toward passengers who purchased tickets of itself, and the tickets might be used indiscriminately upon all railroads within the Commonwealth not excluded from the statute, and were not confined to railroads engaged in transporting passengers in connection with the company issuing the tickets; that the railroad commissioners might exercise their power of exclusion in season to prevent loss from a failure of the company to redeem the tickets issued, or they might not; that the rights of railroad companies ultimately to receive in money the fares of passengers ought not to depend upon the discretion of the railroad commissioners, and if the statute would be invalid but for this discretion this provision would not make it valid; and that the statute was void.

I do not read from the opinion. They discussed the question in an elementary way, defining what a contract is. Every member of the committee knows what it is as well as I could tell it, and perhaps better, that the common law rule is that there must always be mutuality in order that there should be dependent responsibility; that a contract to be binding, must be by mutual agreement between the two, and that no law can be passed by which it shall be said that the Pennsylvania Railroad, for example, shall issue a mileage ticket by which the management of a railroad running on the Pacific coast shall be made to contract with the Pennsylvania as to the ticket presented to it. That position could not be sustained anywhere, and the Massachusetts court so decided.

Mr. MANN. Please discuss the question, not whether Congress has authority to compel one railroad to contract relations with another, but whether Congress has authority to forbid a railroad from engaging in interstate commerce except upon such terms as Congress may fix.

Mr. PAYSON. That would depend, Mr. Mann, upon what those contracts might be. But I think I can answer it in a moment satisfactorily to myself, at least, that interstate commerce as such can not necessarily be compelled—that is to say, you can not compel a railroad in one State, aside from its own pleasure, to do its business with another. If it does undertake to do its business with another road, you can regulate that business; but until it voluntarily engages or enters into some arrangement with some other road which makes the commerce passing over it interstate commerce you can not do anything with it.

Answering you more directly, all that Congress can do is to “regulate commerce” when the commerce exists.

Mr. MANN. That is the point I wanted to get, but I do not think we have authority to compel a railroad to do that.

Mr. PAYSON. This bill does it.

Mr. MANN. The bill is not necessarily to pass in the precise form in which it is presented.

Mr. PAYSON. It is pretty difficult, Mr. Mann, as you will appreciate, in an offhand way to answer satisfactorily, even to one's self, every possible combination or proposition that might come up on a subject like this, which embraces, as I said in opening, the greatest question ever discussed, in my judgment, in this committee room.

Mr. MANN. My idea was to ask you what you proposed to discuss.

Mr. PAYSON. I do not propose to discuss that. I propose to discuss the pending bills, and the principles underlying them. To this point only questions of power of Congress are presented. I shall be glad to address myself to any proposition that shall be put in tangible form and give the committee the benefit of any judgment I might have in connection with the general question. These authorities, as I take it, Mr. Chairman and gentlemen, settle the question in the Sherman bill, first, as to whether these tickets can be made good upon any trains of any railroad in the United States. I would say, Mr. Chairman, that in your absence I had just addressed myself to the question you suggested yesterday, that some of the attorneys should speak to the committee as to the power of one railroad to compel another railroad to accept its ticket, and I cited a decision in Massachusetts where the decision in a case like that was adverse to the contention.

There is another proposition in the Sherman bill, and that is the proposition that these tickets are to be unlimited as to time of use. That, Mr. Chairman, is to me the most absurd proposition, the most unprecedented proposition, that I ever heard of in legislation. For the first time in the history of civilization is it seriously proposed that no statute of limitation shall apply to a matter of contract. By this bill the ticket is to be good forever. The ticket holder awaits his own convenience as to when he shall use it. If he gets any advantage by reason of reduced rates, certainly a reasonable limitation upon their use ought to be allowed, and what that limitation shall be has been declared time and time again to be a "reasonable time." The Supreme Court in the Lake Shore case which I cited yesterday, as the gentlemen will remember, called attention to a provision there, in the statute, as to its invalidity, because the time was limited to five years. The Supreme Court said, in substance, "Why not 10 years? Why not 2 years? The legislature had no power in itself to say what that reasonable time should be, because that is a matter of regulation which the company has the right to fix itself."

The bill says further, "Shall not be restricted in passage on any passenger train of any railroad engaged in interstate commerce." The bill goes on to provide that the use of these tickets shall not be restricted in passage on any passenger train of any railroad engaged in interstate commerce and shall be redeemed upon presentation at any ticket office of any railroad engaged in interstate commerce at the face value. I assume that prohibition of restriction is intended to run against any better class of trains on which a higher charge is made, as they are utilized on the Pennsylvania and other railroads. As to that, I do not care to take up time with it.

Mr. SHERMAN. Do you call an increase of fifty per cent between New York and Chicago a little increase?

Mr. PAYSON. Well, Mr. Sherman, the use of these limited trains is practically a luxury. That is all there is of it. The ordinary accommodation which the people demand and which every railroad in this country furnishes is sufficient for anybody. Nobody wants to ride under better conditions than in a car that cost \$12,000 or \$15,000, upholstered better than the average house of an ordinary citizen—better than my own house—and with all sorts of conveniences and appointments as good as a man gets in his own home. In addition to that, if a man wants to ride in a special train or in a special car, I do not see any

reason why Congress should step in and say he should not have it if he pays for it.

Mr. SHERMAN. You have not answered my question as to the fifty per cent increase. The Twentieth Century Limited on the Pennsylvania road charges that.

Mr. PAYSON. I did not know what the charge was; I did not know as to that; but I do not think that affects the question. It is one of those outside matters that Congress ought not to concern itself with. It is purely a matter of luxury. It is not intended to meet the ordinary public convenience as such, or serve the public transportation from one metropolis to another. If a man wants to pay for it, I do not think Congress has the right to interfere with it. I do not think that method of travel cuts any figure here, one way or the other. If business men desire to pay for the extra cost of cutting the time to 18 hours from New York to Chicago, I do not think Congress should or could properly interfere, so that the cars are open to all. Then comes the last clause, "Redeemable at any ticket office of any interstate railroad at its full face value." Well, that comes within the same rule as has been pronounced against in the Massachusetts case, and presents a proposition that on its face, it seems to me, ought not to commend itself anywhere. Suppose some little lumber road up in Michigan issues a mileage ticket, or mileage book, and it is presented for redemption at San Francisco, at the Union Pacific office; we have to cash it, and we have to hunt up the road. There must necessarily be some clearing-house arrangement fixed by which these things shall go through, and in the meantime we take our chances on getting the money back, and there are forged tickets to be guarded against, and things to be taken care of, and clerical work to be done; and hundreds of things can be better elaborated in that line by gentlemen who are in direct touch with the operating affairs of railroads than I. But on the face of it you have not the power to do it, and in any event you ought not to do it, even if you had the power. I think this view ought to commend itself to every sensible man on the Committee.

Mr. SHERMAN. Right there I, as the introducer of the measure, think that Congress ought not to compel any road other than the issuing road to redeem the ticket.

Mr. PAYSON. Then you still retain in my mind the position of a sensible man, as I have regarded you, lo! these many years. [Laughter.] But finding that you are the author of it, and not finding any man who favors the bill except you, and not having heard of anybody pressing for its consideration [laughter] I thought perhaps there might be good faith in the last clause of the bill—

Mr. ADAMSON. I remedied that mistake, as you will find, in the last clause of my bill.

Mr. PAYSON. Then there are two of you who are sensible men. [Laughter.]

Mr. MANN. There are three bills pending.

M. PAYSON. Yes. The Adamson bill I will come to presently.

That, Mr. Chairman, is all I have to say with reference to that particular feature.

The CHAIRMAN. Before you pass that proposition suppose that the provision suggested by Mr. Adamson should be the provision of the law. What effect would that have upon the scalper and the increase of that honest industry? [Laughter.]

Mr. PAYSON. Well, that part of it, Mr. Chairman, I would rather not go into, for the reason that I am not a practical railroad man.

Mr. ADAMSON. You do not think a scalper would find any margin of profit in a thing which the railroads were ready to redeem at cost?

Mr. PAYSON. I am not prepared to say what the effect of that might be as to actual loss or inconvenience. I know that the railroad men everywhere, the traffic managers and passenger agents everywhere, laid a great deal of stress on the inconvenience, not to say the actual loss, that would occur if this provision of the law should obtain. They can give you the reasons for that better than I can, and will, I doubt not, do so.

The CHAIRMAN. It was suggested here yesterday, as to the redemption of the unused portion of the ticket, that there would be facilities in every part of the country, and that that would do away with the scalper. If you struck that out and limited the redemption to one road, the road of issue, what would be the effect as to the scalping industry? I would like to get your views as to that contention.

Mr. PAYSON. I have no views to present to the committee on that which the committee should give any weight to, because I am not a practical railroad man. I am simply a lawyer. Though I claim to have pretty fair intelligence, and though I have been a close observer of matters concerning railroads since I went out of Congress fifteen years ago, this is not one of the questions I have studied.

I see over there Mr. Hardwick of the Southern Railway, than whom I do know no one of more force and intelligence whom you have before you to address you, and doubtless he will be heard at a later stage of the proceedings, and his statement, representing as he does thousands of miles of railroad, as to that subject would be worthy of credit, while mine would be simply reflected light.

Now the Adamson bill, Mr. Chairman, I do not think would be better on the general proposition, except as to the redemption of the tickets and this restriction as to trains that I spoke of. This is clearly unconstitutional, it seems to me—the provision with reference to mileage books, that they shall be good on all railroads engaged in interstate commerce. It says the railroads on which they shall be good shall be specified therein. When you go to make a mutual arrangement with reference to that and contemplate, too, that the action shall be with reference to the interstate roads in this country, the query arises, How many are included in it? As a matter of fact, I am told this by Mr. Knapp, the chairman of the Interstate Commerce Commission, that there is hardly a road in the United States that does not come under the jurisdiction of the Interstate Commerce Commission in some form or other. Take, for example, some little branch line in the State of Washington or Oregon, running under an independent organization. If it has a package to carry and marks it, say, from Klickitat, Wash., to Reno, Nev., and that package goes by through carriage, it is subject to the Interstate Commerce Commission and has to follow its schedule.

Mr. KENNEDY. Every road that carries the mails also?

Mr. PAYSON. Yes. The entire railroad system of the Union, vast as it is, two hundred and odd thousand miles of trackage, is practically under the direction or jurisdiction of that Commission. The railroads on which these tickets shall be given are to be specified therein. Who is to determine that? The man who wants to use them? Then you

compel the clerical force of the company to fix up the ticket to suit his convenience, specifying where it shall be good, and give it to him and let him use it at his convenience.

Now, I hold in my hand one of the mileage credential scrip books, as it is called, reference to which was made here yesterday, and used by the Union Pacific System and its associates. As to the roads in the extreme Northwest associated in their use, while I have never counted them, there are at least 74 railroads upon which that script mileage can be used. These railroads have entered into a mutual arrangement by which this script, as it is called, which is really a sort of currency for the purchase of tickets at reduced rates—

Mr. ADAMSON. Right there on that point of the bill you are discussing, if a passenger wanted to buy a book and did not wish to use or avail of some of these roads, could he not exclude in the contract such of them as he did not expect to use?

Mr. PAYSON. Under the operation of this bill, of course; but that requires, every time a man wants to travel or make a journey in a way involving two or three railroads—that requires sitting down and fixing up his itinerary with the agent, naming each particular road that he wants to use.

The point I am making is that some of the railroads of the country have entered into this sort of arrangement by an agreement peculiar to themselves, and there is a regulation by law that a head or a chief officer and clerk and all that sort of thing shall be established and a clearing house for arranging the business. But everybody knows what they have got. They pay for this scrip book [holding up a specimen] when they get it, and with it they buy the ticket which they want, which is good upon any one of these roads. But they are good simply because in the first instance they have contracted among themselves and agreed to recognize the ticket thus issued, not because it is a compulsory matter forced upon them by Congress. Any one of them could pull out of it and have no right to complain. But in order to bring about reduced rates and still prevent these tickets from getting into the hands of scalpers the roads have voluntarily made this arrangement between themselves. The Union Pacific system issues this scrip [exhibiting same].

Mr. MANN. Is that a form of mileage ticket?

Mr. PAYSON. No; this is scrip currency.

Mr. MANN. I wish you would explain what that is.

Mr. PAYSON. I will. This is a simple business. You can buy one of these books for \$90 and another for \$50 and another for \$40.

Mr. MANN. Of equal value?

Mr. PAYSON. No, sir. That is the amount of money you put up. Then they give you a lot of truck, such as I have in my hands here [exhibiting same], with certificates. It is used by the traveler as currency. The holder presents that, and he gets the benefit of the reduced rate that these companies have agreed they will furnish. In some cases it is as low as 2 cents a mile and in other cases it is higher, and the only advantage to the passenger is that he has a currency by which he can go to any office embraced within the system of railroads cooperating in this arrangement and get his transportation over any of those lines of railroad at the reduced rates over two or more roads. When he presents this currency, for example, for a ticket to New York he signs his name here [indicating]. It is in du-

plicate. One he keeps and the other goes to the conductor, and in the end it goes through the clearing house of these companies and they balance it up with each other. But that is only a matter of detail in keeping the accounts. This form is used preferably to the usual mileage book.

Mr. CUSHMAN. Where is the check on the transportation, showing how much has been used and how much is yet to be used?

Mr. PAYSON. It is checked up here on the slips, so that it can be known and ascertained how much has been used and how much remains unused, but at the start the traveler gets for \$90, say, this scrip, good for \$110 or \$115 worth of travel at usual maximum rates.

The provision in the Adamson bill is absolutely impracticable in a business way in handling the transportation of this country. It can not be done.

Mr. RYAN. That is pretty tough, Adamson. [Laughter.]

Mr. PAYSON. When I say that I merely repeat what I am told by railroad gentlemen—practical traffic men.

Mr. MANN. I suppose the committee understands your explanation, Judge, but to me it is just as clear as thick mud. [Laughter.] Never having had occasion to use those, I have not the slightest idea of what they mean.

Mr. ADAMSON. I think the explanation is that it does voluntarily what our plan is to do.

Mr. PAYSON. Yes. This leaf [indicating] is only one part of the literature contained in it. It is simply presented as a sample of the method of doing the business. The scrip is a currency for which over all the roads in the association reduced rates may be had.

Mr. SHERMAN. Something in the nature of express checks?

Mr. PAYSON. I never used one, but if they represent value I should say so. But I have injected this into this discussion simply to show that there are instances where the principle intended to be covered by the Adamson bill is already voluntarily followed by certain railroads. There are certain railroads that voluntarily enter into an arrangement by which they will agree to accept the tickets from some other roads which are specified on the tickets themselves if you belong to this association.

Mr. ADAMSON. You admit that there are a large number of railroads engaged in that or a plan similar in detail, and yet you say it is unconstitutional for Congress to do that. You say Congress can not do that, while they are doing it themselves in a certain way.

Mr. PAYSON. Yes, sir. There are many things that I might suggest to you, Mr. Adamson, which are done every day in railroading, and which you participate in—done by the railroads voluntarily—things which Congress could not compel them to do, as excursion party rates, special rates to laborers, etc.

Mr. CUSHMAN. There are certain things that a man can do of his own volition?

Mr. PAYSON. Yes.

Mr. CUSHMAN. He can get married if he wants to, but there is no legislative power to compel him to get married? [Laughter.]

Mr. PAYSON. No. But let us keep the illustration a little bit better in hand. In the South some of the railroads along the seaboard have petitioned the Interstate Commerce Commission to allow them to make a special passenger rate from the North, because of

the demand for oyster shuckers down there, and the Commission will soon issue an order allowing for a lowering of the rate

Mr. HARDWICK. The Interstate Commerce Commission has issued the order, I understand.

Mr. PAYSON. You could not compel them to do that, but on account of the appeal made by people down there who had hundreds of thousands of bushels of oysters going to waste for lack of people to shuck them, the Commission have allowed those roads to reduce the rate for the transportation of people to do that work. The road could not be compelled to do this, but to promote the prosperity of the locality by preparing the oyster for market and securing a high class of freight for themselves they do it. In like manner, cheap rates for laborers to the cotton fields and to the beet sugar farms. All these, voluntary acts by the railroads, but which could not be compelled.

Now, take the case of excursion trains. You can not compel a railroad to carry excursionists at excursion rates, and yet there is a little branch line road near here called the Annapolis Branch of the Baltimore and Ohio Railroad running from Annapolis Junction to Bay Ridge, Maryland, where every summer they run excursion trains from Washington by the Baltimore and Ohio to Annapolis Junction and then by this branch line to Bay Ridge, altogether a distance of about 46 miles, at one-half cent a mile, or perhaps less.

Mr. RICHARDSON. I suppose they discriminate?

Mr. PAYSON. Undoubtedly.

Mr. RICHARDSON. Do you recognize the right we have to expedite the transportation of perishable property?

Mr. PAYSON. Undoubtedly. That is "regulation." There is a right to ship. If a man has perishable property he has the right to have it transported expeditiously.

Mr. RICHARDSON. Give it a preference?

Mr. PAYSON. Yes; as to live stock and perishable property like vegetables and fruit. You undoubtedly have the right, because it comes under the principle of the "regulation" of the traffic.

Mr. RICHARDSON. What distinction do you draw between perishable property and the oyster?

Mr. PAYSON. Oh, the question was not of transportation of the oyster. I was simply talking about hauling people down there at a cheaper rate to shuck the oysters; that it was a discrimination as to rates, but not an unjust one; that the roads did it, but could not be compelled to do it.

Mr. ADAMSON. You may be right on this question, but I will not entirely accept the illustration suggested by you and Mr. Cushman, of voluntary marriages not covered by law. [Laughter.]

Mr. PAYSON. There are hundreds of things of this character, Mr. Adamson, that railroad companies may do, and do rightly and properly, but which Congress could not compel them to do if it desired; and that distinction is clearly made in the Lake Shore case that I read here yesterday. In that case the distinction is clearly recognized.

Mr. RICHARDSON. Don't you think, as a legal proposition, that Congress is confined alone in its jurisdiction to see that the rate is reasonable and fair?

Mr. PAYSON. Undoubtedly, that is the limit of its authority. Everything else is a means to an end. Then, the proposition comes in, What is the best way to do it?

Mr. RICHARDSON. The conduct of the railroad is subject to the Government in charge of it?

Mr. PAYSON. Yes; and the rate must be reciprocal, not only to the public but among themselves.

Mr. ADAMSON. All Congress does as to the interchange of tickets and operating under that arrangement is to say, "Your rate and prices are not reasonable. What are reasonable?"

Mr. PAYSON. No; you would not say that on discussion, and you would not have the right to say it if you wanted to, because, first, they have a right to enter into any contract relation they please as to the issue and value and the expense of tickets on other roads not in violation of law.

Mr. ADAMSON. Suppose the rates are not reasonable?

Mr. PAYSON. That is another proposition. Whether the rates are reasonable or not is a matter connected with the details of transportation. There is a very clean distinction between tickets which evidences the right you have to ride from New Orleans to San Francisco over our line, the Santa Fe system, or whether we will agree with the Southern Railway Company, for example, to accept their tickets when presented.

Mr. ADAMSON. Suppose we provided that instead of compulsion to the railroads to enter into these arrangements and redeem these tickets—suppose we say that those railroads that do enter into those arrangements such as you have described shall do so at certain rates. Is that constitutional?

Mr. PAYSON. I do not think I will commit myself on that. That is not involved in any of these bills. When you propose to do that the question will then be presented.

Mr. ADAMSON. We are simply trying to reach the trouble and remedy it.

Mr. PAYSON. The principle of your bill, H. R. 21572, if there is any principle in it—I do not say this in a disrespectful way—is that the road shall issue the tickets or mileage books when requested good upon any road engaged in interstate commerce. That is the proposition; not that it may be modified in some way, but there is the proposition. The question is whether that ought to be approved by this committee. The courts hold that the legislature has no such power.

Mr. ADAMSON. We are talking here with a view to arriving at intelligent legislation. Suppose that language were amended so as to say that the roads now engaged in that operation, or that will be engaged in that sort of operation—we are considering that subject now——

Mr. PAYSON. I will give you my idea as to that before I conclude here.

Mr. BARTLETT. May I ask you a question?

Mr. PAYSON. Certainly.

Mr. BARTLETT. I did not have the pleasure of being here yesterday when you addressed the committee, but I caught from what you said this morning that without requirement on the part of Congress the railroads with which you are connected had issued these mileage tickets at 2 cents a mile and that they were recognized on other roads, but that a statute of Congress compelling those roads to do that sort of thing would be unconstitutional, even if such a rate were a reasonable rate.

Mr. PAYSON. I have not said that. I have addressed myself to the Sherman bill and as to existing conditions. We know what the conditions are. There is not a place in this Union where a 2-cent rate obtains by law except in the State of Ohio.

Mr. BARTLETT. Then the ground of unconstitutionality would be that it is confiscatory?

Mr. PAYSON. Yes, sir; that it would be depriving the company of its property without just compensation or due process of law.

Mr. BARTLETT. In the event, though, that it should be determined that such a rate, a 2-cent rate, was a reasonable rate, not such a rate as to deprive the railroads of their property without due process of law or without just compensation, would in your judgment such a provision be constitutional to compel a railroad to accept such rate?

Mr. PAYSON. I should say, in an offhand way, that I do not see any objection to that. If the proposition given is, that the rate is a reasonable rate, then I see no objection to the mileage books to evidence that. But that is not the proposition we are discussing. We discussed the Sherman bill here yesterday, in your absence, on the basis of existing conditions—what the mileage rate is everywhere, what it is in different localities, and the conceded fact that the Sherman bill proposes a rate which is less than the established rate in any place in this Union, except in Ohio, as to interstate commerce.

Mr. BARTLETT. Then it would be unconstitutional in its application, and not in its terms or its substance?

Mr. PAYSON. It is unconstitutional as a legal proposition, and when you come to apply it you can not do so, because it is unlawful to do it. If the compensatory rate was in fact 2 cents a mile, I could see no objection to issuing a mileage book on a 2-cent basis. But nothing could be gained by that. Whenever a man wanted to travel he need not put up \$40. He puts up \$10 from here to New York and gets his transportation. It is only on the European plan—a man gets what he pays for. But all these other things are devices by which somebody may get a less rate out of the company than the average citizen gets.

Mr. BARTLETT. I can very well see how the courts might decide that the State law which would reduce a rate below that which might be authorized in the charter granted to the railroad would be unconstitutional, on the ground that it impaired the obligations of a contract; but I did not see how you could apply that rule to the Congress of the United States, because the Constitution of the United States has no such provision in it.

Mr. PAYSON. That phase has not been discussed yet. That is all I care to say, Mr. Chairman, with reference to the specific propositions of these two bills.

Mr. MANN. Let me see if I understand that proposition of Judge Bartlett's. Is your contention that if Congress should require the issuance of mileage books—say, at the same rate that exists as to single-trip tickets—that that would be a mere regulation and constitutional?

Mr. PAYSON. I simply say that at the moment I see no reason to question it, but I do not see how the question would ever present itself, because I do not see how a man would want to buy a mileage book at the regular rate of local traffic. But I do not hold one way or the other about it. The proposition was injected here through misapprehension on account of the absence of a Member yesterday, and I say

simply that the question has not been discussed. I am not prepared to give an authoritative opinion, as to myself, concerning it, but I see no reason for not acquiescing in the proposition of my friend from Georgia [Mr. Bartlett.]

Mr. MANN. Then if the proposition is to reduce the mileage rate on the single ticket, that is not a regulation and, not being a regulation, is without the authority of Congress?

Mr. PAYSON. That is what I stated, and the Supreme Court has decided that in two cases, and the State of Michigan and the State of Virginia.

Mr. BARTLETT. Have you given the cases?

Mr. PAYSON. Yes, sir; that was done during your absence. The last decision in Virginia was November 22, 1906. It is a very recent case. It has not been reported yet in the books, but this [exhibiting] is a copy of the opinion.

Approaching, then, Mr. Chairman, the general proposition in the last two bills, assuming that the Adamson bill might be amended by striking out the proviso, it then remains practically the same, as far as this discussion is concerned, as the bill of the gentleman from Ohio, Mr. Kennedy; that is, providing for a flat 2-cent rate on all railroads in the Union. It is to that question that I now address myself, and I desire to repeat again what I said yesterday, Mr. Chairman, that in my judgment there has never been as important a question discussed in this committee room as this question, nor involving as large affairs, nor which would be as disastrous in results, if the results were wrong, as the proposed action under these bills.

It would be best illustrated, perhaps, when I state the clientage which I have. My clients are the Union Pacific system, as it is known among railroad men, embracing the general system of railroads from Kansas City north and west, and from Omaha north and west, known as the "Union Pacific system," the "Southern Pacific system;" the aggregate mileage of both being 15,124 miles of trackage, extending on the South to New Orleans, western Louisiana, Texas, New Mexico, southern California, to San Francisco; thence north to Portland, Oregon, east from there to Ogden. Five miles west of Ogden is the Southern Pacific system. The two extreme portions of the country are embraced within its limits. The systems are operated in 13 States of the Union and in the 2 Territories of Arizona and New Mexico. There is not a railroad system in the country or in the world that presents as great a diversity of conditions as do these two systems now embraced in what is known as the "Harriman lines." In other words, the Harriman lines, as operated to-day, embrace a greater variety of all sorts of conditions, every one of which must be taken into consideration in determining what a reasonable rate is, than any other railroad system in the whole world. Not only are the main lines involved, but there are connected with the different systems, without stopping to read them, fourteen large branch lines that are operated independently—I mean independent corporations, but under the control of the parent companies; there are twelve branch lines of the Oregon Navigation and Railroad Company, two leased lines in addition outside of its own line, and there are independent branches of the Oregon Short Line; there are eleven branches of the Union Pacific main line, and on the Kansas Pacific there are eight branches in Kansas and one in Colorado.

This little folder map which I hold in my hand [exhibiting] upon

which are colored in red the lines which I represent, and which are involved under the terms of this bill, gives in a very graphic way the different lines of road indicated, and you will see from an examination of it how numerous they are in the total. Here also can be seen the number of little branch lines, particularly in the Southwest, and then in the West and Northwest, and the condition of the track-age system. I have said the total mileage is 15,124 miles.

Then the question that suggests itself at the threshold, Mr. Chairman, is whether a blanket rate of 2 cents a mile is a proper thing to apply to that system of roads. I leave out of consideration for the present other railroads in the country, except for purposes of illustration. I insist, Mr. Chairman, that these bills are palpably unjust and unfair on their face. They provide for a general absolute uniformity of rates as to all interstate roads, and therefore for practically all roads in the Union; and while at the threshold it may be that for the trunk lines, for such roads as the Pennsylvania, the Baltimore and Ohio, the New York Central, the New York, New Haven and Hartford, who have trains as frequent and as long as can be speedily hauled, and every car practically filled to its utmost capacity, 2 cents a mile might be profitable, yet no such rule can be applied to the Western and Southern roads where the full demand on the part of the public is satisfied by infrequent trains used by but few passengers.

It is utterly absurd, it seems to me, Mr. Chairman, to apply a rule fixing 2 cents a mile as the rate on the comparatively compact lines of the eastern roads, with low grades and cheap fuel, and a similar rate to the Western roads, in the foothills of the mountains and in the mountains themselves with violent grades, with sharp curves and tunnels, and obstacles to cheap operation. The volume of business may be greater on one line than on another, and yet the cost of construction and maintenance may be largely less; and to enforce the same rate in both cases would be palpably unjust to one. Nothing could be clearer, in the light of experience, than that the greatest variety exists in the capacities of roads, so that it is absolutely impossible to fix a fair blanket rate.

Now, I take it, Mr. Chairman, that the proposition will not be disputed—it runs through all the books, and will be conceded by any friend of this legislation—that every railroad is entitled to reasonable compensation for the service which it renders. The kind of business, the amount of the business, and the cost of it are necessary factors. None of them can be disregarded. They are necessary in determining the rate, and in connection with the cost of the plant. Now, these elements, as I name them, must be considered as absolutely controlling: First, the fair original cost of the construction of the line; second, the amount expended in permanent improvements; third, the operating expenses, including taxes; next, the expenses of maintenance of right of way, and fixed charges, interest, dividends, and so forth. This is as to cost.

Now that these elements are absolutely necessary to be considered by the rate-making power has been expressly decided by the Supreme Court of the United States. I read from the leading case of *Smith v. Ames* in 169 U. S., and in this book, which is my edition of the Supreme Court Reports, the Lawyers' Reports Annotated, 169, *Smith v. Ames* (vol. 42, p. 849)—

Mr. ESCH. Is that what is known as the Nebraska case?

Mr. PAYSON. Yes. On page 849 of this compilation (vol. 42, U. S. Supreme Court Reports, 167,170,) Mr. Justice Harlan's opinion is given; and before I read that, let me say it is the leading case on the question of the application of reasonable rates as applied to different conditions. It is the most exhaustive opinion I have ever seen on that question. It was delivered, I say, by Mr. Justice Harlan, and it occupies many pages here, and involves some other questions to which I will call your attention later. But the precise point now is found on page 849. The point in this case was whether the rates in Nebraska, which were confessedly 40 per cent higher than those charged for similar service in the adjoining State of Iowa, were such a difference of rates as would warrant the court in interfering. In accordance with the rate fixed by the Iowa Commission, 40 per cent was the difference; and the court goes on and takes into account what must be considered in determining whether the rate is reasonable. The Supreme Court decided in that case that a difference of 40 per cent in the charges for the same service in adjoining States was not unreasonable, and the people of Nebraska had to submit to that—

Mr. BARTLETT. May I interrupt you there to ask a question?

Mr. PAYSON. Yes, sir.

Mr. BARTLETT. On the contrary, did they not decide as to the action of the Nebraska legislature or commission that the rate they fixed was too low and confiscatory; not that the rate then in existence was the rate that ought to be permitted to stand, but that the rate that the Nebraska Commission fixed was too low?

Mr. PAYSON. Not as you put it; but, on the contrary, they held that the rates fixed by the railroad company, and which the railroad company was enforcing, and which were 40 per cent higher than those in Iowa, were not unreasonable rates, and the railroad company might go on and collect them. That was what they decided.

Mr. MANN. I do not see how they could decide that, because that was not before them.

Mr. PAYSON. On the contrary, there was nothing else before them. than the question as to whether the railroad rates were unreasonable, as being largely in excess of the Commission rates.

Mr. MANN. No, what was before them was whether the rates fixed by the Nebraska Commission were unconstitutional. That is all the Supreme Court passed upon, and the Supreme Court in that case and in every other case that has been before it has expressly declined to say what are reasonable rates.

Mr. PAYSON. But they did say that in the case before them the railroad rates were not unreasonable, and that the road was not compelled to adopt the Commission rates in the then situation in Nebraska. They decided that in every case.

Mr. MANN. The rates fixed were not reasonable rates?

Mr. PAYSON. No; they put it on the ground that the records showed that the railroad rates were not unreasonably high, and necessarily that the Commission rates were unreasonably low—

Mr. MANN. We had all that up in the discussion of the rate bill.

Mr. PAYSON. Yes; but it may be barely possible, Mr. Mann, that in the application of this case the conclusion you came to in the other proposition may not be the conclusion you come to in this one. That is barely possible.

Mr. MANN. That is often the case.

Mr. PAYSON. The Supreme Court in *Smythe vs. Ames* fixes the data upon which reasonable rates should be ascertained. The court in this case said:

We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public, and in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stocks, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth. But even upon this basis, and determining the probable effect of the act of 1893 by ascertaining what would have been its effect if it had been in operation during the three years immediately preceding its passage, we perceive no ground on the record for reversing the decree of the circuit court. On the contrary, we are of opinion that as to most of the companies in question there would have been, under such rates as were established by the act of 1893, an actual loss in each of the years ending June 30, 1891, 1892, and 1893; and that, in the exceptional cases above stated, when two of the companies would have earned something above operating expenses, in particular years, the receipts or gains above operating expenses would have been too small to affect the general conclusion that the act, if enforced, would have deprived each of the railroad companies involved in these suits of the just compensation secured to them by the Constitution. Under the evidence there is no ground for saying that the operating expenses of any of the companies were greater than necessary.

Now, there is an authoritative exposition of the factors which at least must be considered. This two-cent blanket rate simply fixes the arbitrary judgment. I do not want to put it as deliberate as that, Mr. Chairman; but it fixes the arbitrary guess of this committee as to what reasonable rates would be, in place of the detailed investigation that the law requires before you come to a conclusion, which you would be justified in arriving at, and, more than that, you fix the length, too, which is so great that not everybody can accommodate himself to it, although, according to the old fable of the bed, if a man is too long you cut him off to fit it, and if he is too short you stretch him out. That is to say, you put the same rate on the little branch line, say, from Maricopa to Phoenix on the Southern Pacific system, that you put on the great and busy lines from Washington to New York City.

Some years ago I had occasion to go to Los Angeles to try a suit in which the Southern Pacific was interested, and while there I had occasion to go to Phoenix in connection with a matter relating to the construction of a piece of railway, which has since then been constructed there. The junction of the main and branch lines was Maricopa; and at that time and until a few years ago it consisted of a very small and primitive station-house, in the second story of which lived the baggage-master, the ticket agent, the railroad telegraph operator, the commercial telegraph operator, and all combined in one person. [Laughter.] There was a little room at the end for the freight and baggage that came in, and also two little houses where the section men lived, and also what pretended to be a country store, the stock of which was largely canned goods and little souvenirs of that country,

the principal of which were specimens of the Gila monster, which were sold as souvenirs. That was the principal station on the line of that road between Tucson and Yuma. It had a water tank, and the water was hauled in tank cars and pumped up into the tank for the use of engines in emergencies when they needed water. The train from Maricopa to Phoenix was composed of two cars, one covering the requirements of baggage car and smoker and a day coach, and it made one round trip a day. There were two paying passengers and three passengers in all, I being one of the three, but riding deadhead. There were but three passengers on that trip. The coal burned in that engine was brought from Australia. It was before the absorption of the Southern Pacific system by the Harriman system. At that time the Southern Pacific did not mine a pound of coal on the eleven thousand miles of road it had, and the coal that was burned in that engine, as I learned in talking with the engineer and afterward verified the fact at San Francisco, came from Australia. That coal, as fuel, was eked out by mesquite roots and stuff gathered here and there to help out and economize the coal business. Two days afterwards five passengers came back on the return trip—four pay passengers and one deadhead. Many passenger trains on the main line had to carry an extra tank car besides the ordinary tank on tender to supply the lack of water that prevailed. The forward car was for Mexicans and greasers, and the rear car was for other passengers. That was the outfit of that train.

The water was hauled in to supply the lack that existed in that country and if they could not get a supply at Phoenix they got it from the Maricopa. There were three bags of mail in the mail train going in and two coming out, neither one of which was filled, and the amount of express matter that was in that car could be hauled in an ordinary spring wagon, such as those that deliver baggage about these streets.

Now, then, on the other hand, I go down here to the Pennsylvania station, going to New York—

Mr. MANN. The Government would not have lost very much if it had carried all those passengers and freight itself. [Laughter.]

Mr. PAYSON. No, sir; but yesterday, Mr. Mann, if you will pardon me for refreshing your recollection, when mention was made of the large number of lines in these sparsely settled regions that were doing a passenger business at a loss, you intimated sarcastically that they seemed to be running a sort of eleemosynary institution. I say to you, Mr. Mann, that it can be verified by every traffic agent that has looked into the matter and has run it down that there is not a line of road west of southern Mississippi and west of the Missouri River that operates to-day its passenger system except at a loss.

Mr. MANN. But they make it up—

Mr. PAYSON. They make it up out of their treasury.

Mr. MANN. They usually make it up out of the freight business, or else go into bankruptcy very speedily. Now, if the railroads have a right under the law to run passenger business at a loss and make it up out of the freight business, so that the road pays a profit out of the entire business, the question is whether Congress has not the right to say whether they shall make up a little more or a little less.

Mr. PAYSON. There is a better way of stating it than that, if you will pardon me—a better way by a great deal—

Mr. MANN. I have no doubt you can state it much better than I can.

Mr. PAYSON. No; I do not mean that. Anybody, almost, can say it better than I can; but the business as a whole must pay. Operating expenses and all others must be met by earnings, which must be reasonable for the service rendered; but when the passenger business is run at a loss it has to be paid for in some way. I say it comes out of the treasury. You say no, while I say yes, because there is no other way of paying a deficit in expenses except out of the treasury, and no money comes into the treasury except by freight and passenger traffic and mails and express—its transportation earnings.

Now, I am departing from what I had in mind when I started, but I am willing to be diverted. But that brings us to the suggestion made by Mr. Esch yesterday as to whether or not there is a distinction in the passenger traffic; whether it can not be limited by mileage, by some manipulation in some way of the freight business; because if it is paid and is a loss and has to come out of the earnings of the company, then might it not be that the earnings of the freight department are too high, because it is able to stand and does stand this sort of loss in making up the deficiency of the passenger traffic? The answer is perfectly clear. There has to be provision made in every great business transaction for some contingencies. Suppose some railroad station were burned. How is that paid for? If it is a freight house, which is used for nothing else but for freight, it is paid for out of the treasury. If this great union station now being erected north of us at an expenditure of \$5,000,000 or \$6,000,000 should be destroyed, the railroad company would not take it out of the passenger earnings to make up that loss or make it good, although it is solely related to passenger business, but the company would pay the loss out of its treasury, issue bonds, and build the station over again. That is the way it has to come, if I make myself understood.

But coming back to my illustration: here is my Phoenix road, and you are proposing by this bill to compel us for that 38 miles to carry a passenger for 76 cents. Now, on the other hand, I go down to the Pennsylvania Railroad station here, going to New York, and I see an express car, frequently two cars, filled full with express matter, the mail matter being hauled in there in trucks as large as loads of hay on the farm when I was a boy. I get into the train there. I have never seen less than 5 cars and often 8 or 9 cars, and in the last two weeks a number of trains of 10 cars, and every car forward of the Pullman car filled to the utmost capacity. The car in which I was seated was full, and in addition to the people occupying seats people were sitting on the ends of seats—children and young people—until some were unloaded at Baltimore. Between here and Philadelphia passengers were coming in and going out. At Philadelphia it filled up again, and when that train arrived at Jersey City it was as full as when it left Washington.

Now do you undertake to tell me, Mr. Chairman, that there is the slightest element of justice or fair dealing or decency in saying that the rate which applies to the Pennsylvania road (and you could see that situation every day when you go to that station) shall be applied to the thousands of miles of road of the clientage that I represent here?

Mr. ESCH. Ought we not to consider in that connection the increase taxes of these roads in the East, and the increased cost in that way?

Mr. PAYSON. Yes, undoubtedly. But these are all elements that

have to be considered; and to come down to what I intend to impress upon this committee, every tub ought to stand on its own bottom, and every particular case ought to be considered under the particular conditions that surround it. Let the garment fit the man instead of trying to make one uniform garment fit everybody.

Mr. BARTLETT. I do not want to interrupt you, but I do not want you to get away from the point you were on before, or lay down that book—I do not think you will find a decision where the Supreme Court decided that a rate forty per cent higher, as you state, was a reasonable rate.

Mr. PAYSON. I did not say that. I said the court held that a railroad rate in Nebraska 40 per cent higher than that charged for similar service in Iowa was not an unreasonable rate in the then conditions in Nebraska. That if conditions should change, a change in rate could be made.

Mr. BARTLETT. The decision directed the case to be left open to the Commission for their consideration thereafter.

Mr. PAYSON. Exactly, in case of change in conditions for the better. That leads up to what I am saying that every case must stand on the conditions that exist at the time the rate-making power exercises its power. If there should be a change in conditions then there should be a change in the rate; but there ought not to be any stronger argument for making a change in a rate if conditions change as to one road than if some dissimilarity existed as to two rates at the moment. Do I make myself clear?

Mr. BARTLETT. Yes.

Mr. PAYSON. I will come to that more fully later on. I will try to make it not only exhaustive, but I fear, wearisome. [Laughter.]

Another thing, I go from here to New York, and in going over that route I see practically every foot and every acre of ground between here and Jersey City producing something in the way of transportation—a line of country that is dotted every few miles with prosperous towns and manufacturing centers, every minute bearing evidence of something that will at sometime or other bear tribute to the railroad. May I say to you that upon hundreds of miles that I represent here, there never has been and never will be a dollar's worth of traffic or freight originating in the land over which the road runs; the railroad might just as well be on a bridge as on the earth. Take it in southern Arizona. Mile after mile, after Tucson is passed, until you get to the Yuma River, there is not a foot of earth that has ever produced anything or ever will produce anything. It is arid country. You can only use irrigating where the topography is such that the water will run over the soil. But down in that particular country it will not do that. Take it up in Nevada, and it is the same way. Mile after mile of railroad along the Central Pacific, and in western Utah the road as I said before concerning the line down in Arizona, might just as well be upon a bridge as upon the surface of the earth. And yet you tell me by these bills that that condition which must be taken into account as effecting the earning capacity of a property shall not be considered, and that you will impose upon us the same rate of 2 cents a mile as you do upon these great eastern roads.

Mr. ESCH. Ought we not to consider, in a comparison of the eastern with the western roads, the fact that the western roads have got land grants?

Mr. PAYSON. Yes; I know something about the land grants. There never was a more mistaken notion in the world than that the land grants to the Central and Southern Pacific roads have been very valuable, as convertible assets.

From Mohave to the Needles, on the Southern Pacific system, a branch line was built to connect with the Atlantic and Pacific roads, 267 miles, as I remember.

The Government claimed we were not entitled to land grants there. I went to Los Angeles to look into the matter in the courts, and availed myself of the courtesy of a gentleman connected with the Atchison, Topeka, and Santa Fe, who was down there on business connected with his company—the only time I enjoyed that luxury. I enjoyed the courtesy of that gentleman in a private car, and we struck this land grant that I referred to, which was in litigation. The mileage was about 267 miles. On one section of nearly 100 miles, between the Needles and Mohave, there were two stations. One was an abandoned box car, and the other was a building that probably cost \$50. Not an acre of land in sight originating a dollar of railroad traffic there.

To my knowledge there has not since that time been a foot of ground utilized in sight of that section of road.

There, gentlemen, were the odd sections of land for 20 miles on either side of the road, and the soil was apparently as valueless for any useful purpose as the top of this table. We won out in the lawsuit. I met Mr. Huntington in New York some weeks afterwards, and I said to Mr. Huntington "This is a pretty expensive business. We have got the land, but what under the sun do you want that land for?" But he replied—and I use his own expression—"I do not know that it is worth anything, but it makes good security for bonds." [Laughter.] We have more than 15,000,000 acres of the grant to the Southern Pacific still unsold, and millions of acres along the Central Pacific unsold and unsalable at any price.

Away east of that there is some good country, and in that region the land grant is valuable. But, Mr. Esch, it should be remembered that the land grant was made to that road not for the purpose of enriching the men who did it—the men who built it—but for the purpose of offering a bounty to try to secure the investment of capital for the construction of the most expensive railroad ever constructed in this country. As to original construction, I am talking about the Central Pacific road.

Mr. ESCH. More expensive than the Great Northern?

Mr. PAYSON. Yes, sir. No road so expensive was ever constructed as that from Sacramento to east of the Rocky Mountains. What I say about this I know to be true. When that road was projected in 1862 the men at the head of it were the "Big Four"—Mark Hopkins, Leland Stanford, Charles Crocker, and Collis P. Huntington. All sorts of predictions were made as to the outcome by people who did not believe it could be done; people made predictions of the failure of that business. They could not enlist capital. They had some themselves, and they went on with an energy that will meet the admiration of the world everywhere when it comes to be written up.

Those men began the construction of that road at Sacramento, not at San Francisco. Every rail that was laid from five miles west of Ogden to Sacramento was carried from New York to San Francisco,

around Cape Horn; transshipped and loaded again and taken to Sacramento by water, unloaded and teamed from last landing there into the mountains. Every piece of machinery, every locomotive used in connection with the construction and operation of that road for some little time was bought in New York, assembled, taken down, white-leaded and oiled, packed again, and put on the ship and sailed around the Horn to San Francisco; again taken ashore and towed on a lighter to Sacramento, and there reassembled, and tried in its work. The material that went in there—spikes, and angle iron, and everything of that sort—was bought in New York, and bought at the prices that prevailed at that time.

I am glad you interrupted me in this direction. That was during the war of the rebellion.

Locomotive after locomotive was bought by Mr. Huntington in New York, as the purchasing agent, and paid for in gold at a premium of 200 per cent; locomotive after locomotive, freight car after freight car, tons and tons of railroad iron, at a time when the depreciation of paper money was so great that, in instances, it cost Mr. Huntington \$220 for every \$100 worth. Every railroad tie laid upon the ground by actual figures on the books of the finance company cost them over \$2 a piece; and yet, when you talk about the question of the construction of that road, you want to look into that proposition to determine whether a 2-cent blanket rate is the proper thing. I am glad of the interruption, Mr. Esch.

The first grant to that road was made by Congress in 1862. It provided for a subsidy loan of Government securities of \$8,000 a mile, until they got to the foothills; \$16,000 a mile till they got to the mountains; \$32,000 a mile for the divisions embracing the Sierra and Rocky Mountains.

Mr. ESCH. You are talking about the Central Pacific?

Mr. PAYSON. Entirely of the Central Pacific. That was the first thing that was offered.

Mr. LOVERING. Were they not racing at that time?

Mr. PAYSON. No, sir. That racing came later. I will come to that later on, if you regard it as material. That racing did not occur until 1867 and 1868. I am talking now about 1862, at the time Congress was acting. Mr. Huntington, than whom a greater man never lived as a transportation man, unless Mr. Hill may be a greater man—Mr. Huntington did the best he could to enlist the investment of capital. Charles Crocker also did his very best to insure the investment of capital, but nobody would touch it. They came to Congress, and in 1864 these subsidies were doubled. That is to say, they got \$16,000 a mile at the level, \$32,000 at the foothills, and \$64,000 in the mountains, in the way of a subsidy. That, now, was a loan, not a gift, but simply a loan of the credit of the Government, for which the Government took a second mortgage on the property of the company.

Now we come to the land grant. It was originally a grant of alternate sections of land for ten miles on either side of the road. It was not profitable to anybody. If it had not been for the discovery of minerals it would be practically worthless to-day. All the benefit they got out of the grant for years and years was simply, coming back to the Mohave illustration, that it made a basis for the security of bonds. They have never made but little money out of it.

I am authorized to speak for the company in its land department,

Mr. PAYSON. I have not said that. I have addressed myself to the Sherman bill and as to existing conditions. We know what the conditions are. There is not a place in this Union where a 2-cent rate obtains by law except in the State of Ohio.

Mr. BARTLETT. Then the ground of unconstitutionality would be that it is confiscatory?

Mr. PAYSON. Yes, sir; that it would be depriving the company of its property without just compensation or due process of law.

Mr. BARTLETT. In the event, though, that it should be determined that such a rate, a 2-cent rate, was a reasonable rate, not such a rate as to deprive the railroads of their property without due process of law or without just compensation, would in your judgment such a provision be constitutional to compel a railroad to accept such rate?

Mr. PAYSON. I should say, in an offhand way, that I do not see any objection to that. If the proposition given is, that the rate is a reasonable rate, then I see no objection to the mileage books to evidence that. But that is not the proposition we are discussing. We discussed the Sherman bill here yesterday, in your absence, on the basis of existing conditions—what the mileage rate is everywhere, what it is in different localities, and the conceded fact that the Sherman bill proposes a rate which is less than the established rate in any place in this Union, except in Ohio, as to interstate commerce.

Mr. BARTLETT. Then it would be unconstitutional in its application, and not in its terms or its substance?

Mr. PAYSON. It is unconstitutional as a legal proposition, and when you come to apply it you can not do so, because it is unlawful to do it. If the compensatory rate was in fact 2 cents a mile, I could see no objection to issuing a mileage book on a 2-cent basis. But nothing could be gained by that. Whenever a man wanted to travel he need not put up \$40. He puts up \$10 from here to New York and gets his transportation. It is only on the European plan—a man gets what he pays for. But all these other things are devices by which somebody may get a less rate out of the company than the average citizen gets.

Mr. BARTLETT. I can very well see how the courts might decide that the State law which would reduce a rate below that which might be authorized in the charter granted to the railroad would be unconstitutional, on the ground that it impaired the obligations of a contract; but I did not see how you could apply that rule to the Congress of the United States, because the Constitution of the United States has no such provision in it.

Mr. PAYSON. That phase has not been discussed yet. That is all I care to say, Mr. Chairman, with reference to the specific propositions of these two bills.

Mr. MANN. Let me see if I understand that proposition of Judge Bartlett's. Is your contention that if Congress should require the issuance of mileage books—say, at the same rate that exists as to single-trip tickets—that that would be a mere regulation and constitutional?

Mr. PAYSON. I simply say that at the moment I see no reason to question it, but I do not see how the question would ever present itself, because I do not see how a man would want to buy a mileage book at the regular rate of local traffic. But I do not hold one way or the other about it. The proposition was injected here through misapprehension on account of the absence of a Member yesterday, and I say

simply that the question has not been discussed. I am not prepared to give an authoritative opinion, as to myself, concerning it, but I see no reason for not acquiescing in the proposition of my friend from Georgia [Mr. Bartlett.]

Mr. MANN. Then if the proposition is to reduce the mileage rate on the single ticket, that is not a regulation and, not being a regulation, is without the authority of Congress?

Mr. PAYSON. That is what I stated, and the Supreme Court has decided that in two cases, and the State of Michigan and the State of Virginia.

Mr. BARTLETT. Have you given the cases?

Mr. PAYSON. Yes, sir; that was done during your absence. The last decision in Virginia was November 22, 1906. It is a very recent case. It has not been reported yet in the books, but this [exhibiting] is a copy of the opinion.

Approaching, then, Mr. Chairman, the general proposition in the last two bills, assuming that the Adamson bill might be amended by striking out the proviso, it then remains practically the same, as far as this discussion is concerned, as the bill of the gentleman from Ohio, Mr. Kennedy; that is, providing for a flat 2-cent rate on all railroads in the Union. It is to that question that I now address myself, and I desire to repeat again what I said yesterday, Mr. Chairman, that in my judgment there has never been as important a question discussed in this committee room as this question, nor involving as large affairs, nor which would be as disastrous in results, if the results were wrong, as the proposed action under these bills.

It would be best illustrated, perhaps, when I state the clientage which I have. My clients are the Union Pacific system, as it is known among railroad men, embracing the general system of railroads from Kansas City north and west, and from Omaha north and west, known as the "Union Pacific system," the "Southern Pacific system;" the aggregate mileage of both being 15,124 miles of trackage, extending on the South to New Orleans, western Louisiana, Texas, New Mexico, southern California, to San Francisco; thence north to Portland, Oregon, east from there to Ogden. Five miles west of Ogden is the Southern Pacific system. The two extreme portions of the country are embraced within its limits. The systems are operated in 13 States of the Union and in the 2 Territories of Arizona and New Mexico. There is not a railroad system in the country or in the world that presents as great a diversity of conditions as do these two systems now embraced in what is known as the "Harriman lines." In other words, the Harriman lines, as operated to-day, embrace a greater variety of all sorts of conditions, every one of which must be taken into consideration in determining what a reasonable rate is, than any other railroad system in the whole world. Not only are the main lines involved, but there are connected with the different systems, without stopping to read them, fourteen large branch lines that are operated independently—I mean independent corporations, but under the control of the parent companies; there are twelve branch lines of the Oregon Navigation and Railroad Company, two leased lines in addition outside of its own line, and there are independent branches of the Oregon Short Line; there are eleven branches of the Union Pacific main line, and on the Kansas Pacific there are eight branches in Kansas and one in Colorado.

This little folder map which I hold in my hand [exhibiting] upon

However, in order that I may have a clear understanding of what we are discussing, I will take the liberty of reading a short statement showing the substance of the three bills pending before the Committee.

The first bill, H. R. 20153, requires all railroad companies engaged in interstate commerce to sell 2-cent mileage books at all ticket offices; the books to be good for transportation and the checking of baggage upon any railroad in the United States, and unlimited as to time of use, and good upon any train, and redeemable at any ticket office of any railroad company in the United States. Punishment for each violation is a fine in any amount not to exceed ten thousand dollars.

H. R. 21572 makes it unlawful for a railway company engaged in interstate commerce to receive more than 2 cents per mile for interstate passenger fares, and makes it the duty of the company to keep constantly on sale tickets and mileage at 2 cents per mile, and failing to do so, it must not charge passengers over 2 cents per mile cash fare.

It makes it the duty of every railway company to sell tickets or mileage books good upon any railroad engaged in interstate commerce; the tickets or mileage books to be unlimited as to time of use, and redeemable at cost by the company which issued it; violation to be punished by fine of not exceeding \$10,000, or imprisonment for not exceeding three years for any offense; the director, servant, or agent found guilty, and the railroad company found guilty, to be fined not exceeding \$10,000.

H. R. 22133 requires, after July 1, 1907, all railway companies engaged in interstate commerce to issue and sell at all passenger stations tickets and mileage coupons at a uniform rate of 2 cents per mile, to be good in the hands of any holder for transportation and for checking of baggage, and unlimited as to the time of use; not to be restricted in passage on any passenger train; to be redeemable upon presentation at any ticket office of the company issuing them, and no extra fare above the payment of 2 cents per mile shall be collected; violation to be construed as a misdemeanor, and upon conviction the officers, directors, or agents of any railroad company so convicted to be fined not exceeding \$10,000 dollars. By section 2 the Interstate Commerce Commission is empowered to suspend the operation of the act under certain circumstances.

Those, gentlemen, are the three bills which are pending before your committee. The three bills are similar, and the result of the enactment of any one of them would be to reduce all rates, both State and interstate, to 2 cents per mile.

I submit, gentlemen, that it would be unwise and unfair to make the same rate for every road in the country without taking into account the circumstances and conditions, which vary greatly in different parts of the country, and even on different roads in the same territory.

The CHAIRMAN. Have you H. R. 22130?

Mr. HARRISON. I have H. R. 20153, sir, and H. R. 22133 and H. R. 21572. Those are the only ones I was advised referred to this subject.

The CHAIRMAN. You are right.

Mr. HARRISON. While there has been a good deal of discussion in the testimony thus far taken before the committee as to the power of Congress to enact this, that, or the other bill, and as to what effect the enactment of the so-called Sherman bill would have, I think the question before this committee is a broader question than one that simply

involves the power of Congress to enact the bill. In other words, I think that the railroad people ought to come here and reason with the committee on broader lines than that, if we can—not, of course, criticising any gentleman who has testified before me.

The question to my mind is whether Congress will enact a bill requiring the interstate railroads of this country to carry a passenger at 2 cents a mile. Whether or not you have the right to do that, I assume that you believe that it is a fair proposition and that the railroad companies of this country can stand 2 cents a mile. But I feel sure that if it is proved to you gentlemen that they can not stand it, you will not enact it. Therefore, in the few suggestions I will make to the committee, I will take the liberty not to discuss the law of the case at all, but simply address myself to the proposition as to whether the railroads, particularly the southern railroads, can stand a 2-cent rate.

While of course either one of these bills, or any bill that might be suggested to Congress or recommended to Congress by this committee and passed, would technically affect only interstate commerce, yet practically it would affect all commerce, both interstate and State, and make an absolute flat rate for the company I represent and all other railroads of 2 cents a mile. It would be practically impossible to undertake to charge an interstate passenger 2 cents a mile and to charge a State passenger more.

It is our practice in making our rates to make them uniform, as far as we can, and, everything else being equal, to make them the same in all the States through which we run, both freight and passenger rates. Our rates are based upon a uniform scale, departed from by exceptions as circumstances and conditions requiring a departure arise—as, for example, when a State commission makes a rate to us, that is, a freight rate, we always apply that rate to interstate business. Some roads have a method of carrying an interstate rate and a local rate. If a commission establishes a rate on their business that would lower either the State or the interstate rates, they apply the same rate.

We apply the local State rates to our interstate business as well as to the State business. If the State, for instance, of Kentucky should pass a 2-cent rate, we would have to apply that to our interstate business, just as we would have to apply any rate passed by Congress to our State business.

I want to suggest also to the committee that there is quite a difference between passenger rates and freight rates. In all rate making affairs it occurs to me that there are three parties which should be considered: First, the public as a whole; second, the railroad company, and, third, the individual dealing with it. It is to the interest of the public as a whole that the rate should be fair both to the railroad and to the public. It is to the interest of the public that the railroad company should prosper. It is also to the interest of the public that the man dealing with the railroad company should have a fair rate. Consequently three parties are interested—the public, the company, and the parties dealing with the railroad. That will be seen to be true because all the railroad company has to sell is transportation, and all the way it has to get any money in order to make the improvements which it is called upon to make and to carry on its business is from its patrons.

Last year on the Louisville and Nashville system the passenger earnings were \$10,868,150.53.

Mr. CUSHMAN. What system is that?

Mr. HARRISON. The Louisville and Nashville. The best estimate we have been able to make as to the cost of those earnings is \$7,673,433.37, making an expense ratio to the earnings of a little over 70 per cent. That expense ratio is arrived at by following the formula laid down by the Interstate Commerce Commission when they required a separation of the passenger and freight earnings. The Interstate Commerce Commission itself, as well as many of the principal railroads in the United States, has found it impracticable, practically impossible, to separate the passenger and freight earnings, and has quit requiring it, but our railroad has kept it up, and keeps the data on the basis of the formula required by the Interstate Commerce Commission when that Commission kept up the division.

From the best estimate we have been able to make the proposed bill would reduce the passenger earnings of the Louisville and Nashville, based on the earnings of the past year, \$2,211,674.23. That would be the actual reduction brought about by reducing its passenger rates to two cents a mile, while at the same time it would not reduce the expenses in any way.

Mr. CUSHMAN. How many miles of road are there on the Louisville and Nashville?

Mr. HARRISON. A little over four thousand. I have the exact operating mileage here of last year. For the year ending June 30, 1906, the operating mileage was 4,130.91.

Mr. CUSHMAN. And you figure that the amount of reduction on that mileage, if this 2-cent rate should go into operation, would be over \$2,000,000?

Mr. HARRISON. The information given by our auditor was \$2,211,674.23.

Mr. ESCH. Do you know how he arrived at that?

Mr. HARRISON. No, sir. I simply asked him for figures showing the reduction. Frankly, I will say to the Committee it is a rough estimate, but a conservative estimate. He figured it would reduce our passenger earnings 22½ per cent.

Mr. STEVENS. You do not know if that makes allowance for increased traffic?

Mr. HARRISON. No, sir; nor does it make allowance for the increased traffic that would be brought about by the reduction of excursion rates, if they should be reduced, and it is our opinion that the excursion rates would necessarily be reduced. For instance, like other railroads, we have a rate every Sunday of one and one-third fare to towns which you can go and come back during a day. People go that way and visit each other on Sunday. It is our opinion that that rate would be reduced.

If the ticket costs them \$1.50 straight fare, they can go to that place and back on Sunday for \$2. If that rate is reduced, say, a dollar by that bill, in order to take care of that traffic we would have to reduce the excursion rate. We give excursion rates to public fairs and meetings and conventions at one and one-third fare. If you make a mileage basis such as that to a very large meeting like the G. A. R. convention, or the Confederate Veterans, or the St. Louis Exposition, we would make a rate of 1 cent a mile; but where the rate is based on a straight ticket rate it is our opinion that that would be reduced,

and would make a larger reduction than the figures I have given, unless they should be withdrawn, which is not at all likely.

The CHAIRMAN. I was going to ask you if it would result in reducing the rates or reducing the service?

Mr. HARRISON. I am not a passenger man, but it seems to me they would have to go on and try to increase the business in some way to make up for this reduction, and therefore they would not want to take out these rates, these excursion rates, because a great many people who use these rates travel on the usual trains, which is just that much money made which would not be made if we did not have the rates in.

Mr. ESCH. Is it not a fact that the excursion business multiplies the patronage?

Mr. HARRISON. Yes. We read an advertisement in the newspaper, for instance, to use a common illustration, of Manhattan shirts that sell for \$1 or \$2 or \$2.50 reduced in the spring, and I go down and buy one that is sold for \$1.50 in the summer because in the fall I buy me my next summer's supply. A man reads in a paper that he can ride, for instance, to a certain point at a very cheap and unusual rate, and in consequence he gets on a train and goes. But the reduction of the rate to a great extent would not exceed the great majority of travel, because people who travel now travel either for pleasure or profit, and the regular travel, we believe, would not be increased to a large extent. It has been estimated on some of the Western roads that 50 per cent of the travel, say on the Santa Fe, for example, is pleasure travel, 10 per cent for health, and the rest miscellaneous.

Now on this general subject, gentlemen, I have not been able to make up the figures as I wanted them, but I wish to make a suggestion; that everything that enters into the cost of road operation has increased very largely of late years, just as things have done that enter into a man's life, clothing and food and everything. Everything that enters into the train service has increased largely.

The CHAIRMAN. Before you leave this subject that you have just been discussing, I would like to ask you to what extent your passenger traffic could be increased without in any way increasing your operating expenses? In other words, what proportion of your present facilities for passenger traffic is used?

Mr. HARRISON. So far as engines and cars are concerned, especially so far as cars are concerned, our passenger traffic could be increased very largely without increase of cars.

Mr. ESCH. Or motive power?

Mr. HARRISON. I do not know as to motive power, because we have been quite hard up for motive power in recent years, although our equipment has lately increased nearly 100 per cent.

The CHAIRMAN. What proportion of your passenger cars are used now by the traveling public?

Mr. HARRISON. For the year ending June 30, 1905, we had an average of cars on a train of 4.91. For the year ending June 30, 1906, we had 4.67. Now the number of passengers carried in each train for the year ending June 30, 1905, was 46.84.

The CHAIRMAN. To the train?

Mr. HARRISON. Yes. Now the number of passengers carried to the car for the year ending June 30, 1905, was 13.12.

The CHAIRMAN. What was the capacity of those cars?

Mr. HARRISON. I should say 60. Now the number of passengers carried per train in the year ending June 30, 1906, was 41.09. The number of passengers carried in each car was 12.28 or about 13.

The CHAIRMAN. With the number of cars that you have given in a train what would be the weight, probably, of that train?

Mr. HARRISON. That would be right hard to estimate, Mr. Chairman. You mean the weight of the train without the passengers, or with the passengers?

The CHAIRMAN. No, as you carry it; and then I want to ask you what would be the capacity of that engine?

Mr. HARRISON. The capacity of that engine would be nearly always sufficient, unless in the case of heavy grades, to carry the train pretty fully loaded.

Mr. CUSHMAN. What is the weight of an ordinary passenger coach?

Mr. HARRISON. I do not know, sir.

Mr. ADAMSON. If all these cars should have the seats full, would the same engine you now use be sufficient to carry them?

Mr. HARRISON. I think so, except in the case of heavy grades.

Mr. ADAMSON. Would it be possible to have three or four times as many passengers without increasing the motive power or the capacity of the engine?

Mr. HARRISON. Yes, if we had them. The only time we can fill them is by excursion rates. Ordinary travel will not fill them.

I started out to say that I think the Committee ought to take into consideration the increased expenses.

The CHAIRMAN. You say you could carry three or four times as many passengers as you now do, but you have not got them. Assuming that your rate to-day is 3 cents a mile, suppose you reduce the rate to one and one-half cents a mile: Would you probably double the number of passengers carried?

Mr. HARRISON. I think not, sir.

The CHAIRMAN. If you did double the number of passengers, would the result in receipts and expenditures be the same for the carrying?

Mr. HARRISON. The result in expenditures and receipts at half the rate and double the number of passengers would be approximately exactly the same.

Now, to show the effect on regular traffic that a reduction of rate has, our maximum rates are 3 cents a mile, except in Florida on a division built and operated under a separate charter, and it does not pay operating expenses, and there it is 4 cents. Now we sell a mileage book at $2\frac{1}{2}$ cents a mile, which is good on every division on the Louisville & Nashville Railroad, even on a division where 4 cents is charged, with the exception of two small roads which we operate on account of the owners and from which they get the profit. That is a reduction from the regular rate of 20 per cent. You would think that the regular travel would to a large extent take advantage of a reduction of 20 per cent, and yet our mileage books represent only 7 per cent of our passenger earnings, showing that the reduction of the rate does not have any material effect.

Mr. ESCH. Is that $2\frac{1}{2}$ cents in a thousand?

Mr. HARRISON. Yes.

Mr. RICHARDSON. Can you not make an estimate of the number of passengers based upon the population?

Mr. HARRISON. I have those figures here of the number we carry in a year.

Mr. RICHARDSON. Can you not make an estimate of the number you carry, based upon the population along the line through which your road passes?

Mr. HARRISON. That, in the nature of the case, would not be correct. I might make an estimate based on the increase of 1906 over 1905. Practically all that increase, however, was on account of increased mileage. I have it here. In 1905 the length of mileage operated by the Louisville and Nashville Railroad Company—and in speaking of the year 1905 I always mean the year ending June 30—the length of mileage at that time was 3,826.21. That mileage had increased for the year 1906 to 4,130.91. Now the number of passengers carried in 1905 was 9,718,705. The number of passengers carried in 1906 was 10,666,500, an increase of a little over a million in the number of passengers. Now, the passenger earnings, or rather the earnings from passenger trains, including some express, baggage, and so forth, in 1905 were \$10,386,044.71, while in 1906 they were \$10,868,150.53, an increase of about \$500,000. But there was an increase of mileage of over 200 miles.

Now, the earnings per mile of road in 1905 were \$2,714.38. In 1906 they were \$2,690.93, a decrease of little over 3 per cent; while the expenses per mile of road in 1905 were \$1,645.16, and the expenses per mile of road in 1906 were \$1,857.56, an increase of over 13 per cent in expenses.

The CHAIRMAN. Was the mileage the same during this year?

Mr. HARRISON. No, sir. In 1906 there was a little over 200 miles of additional road. We opened up a road between Knoxville and Atlanta.

Mr. MANN. How do the percentage of the increase of road and the increase of traffic compare?

Mr. HARRISON. I think the principal increase of traffic, the total increase of traffic, was because of the increase of the mileage of road; but when you spread it over the whole mileage operated in 1906 it shows a decrease of percentage per mile.

Mr. MANN. It shows a decrease in percentage?

Mr. HARRISON. Yes, sir. In other words, you have \$2,714 earnings per mile in 1905, and \$2,690 earnings per mile in 1906, while the increase of mileage was 7 per cent and the increase of expenses was 13 per cent.

Mr. MANN. The increase in receipts is what I had in mind.

Mr. HARRISON. The increase in receipts was 4.64 per cent.

Mr. RYAN. That is in the passenger business alone?

Mr. HARRISON. That is the earnings from passenger trains. That includes express, mail, and things of that kind. Those are not the figures that are used in arriving at this deduction. The figures used in arriving at this deduction are \$8,831,000. Baggage is taken out. Our report shows just earnings from passenger trains.

As I started to suggest awhile ago, gentlemen, the increase of expenses in every thing that enters into the operation of a road—

Mr. STEVENS. Before you come to that I would like to ask you a question. Your expense account includes losses by accidents and casualties, I presume?

Mr. HARRISON. Yes; and I might say in that connection I have had

a great deal of experience in that line, having settled personal injury claims for a great many years. While the passenger earnings of our road are only about 25 per cent of the total earnings, our injury claims are over 50 per cent.

Mr. STEVENS. Would the number of accidents increase in the same proportion if your business were doubled?

Mr. HARRISON. I should say so. The number of claims is increasing all the time.

Mr. STEVENS. Suppose your passenger traffic is doubled or the mileage increased, what allowance would you naturally make for accidents or claim expenses?

Mr. HARRISON. The only way we can arrange matters of that kind is to see how much we pay up in a year and charge it up at the end of the year. We can not tell exactly what will happen in a year. We can judge only by what happened the year before. Our personal injury claims last year, according to my recollection, were something like \$250,000. That is not a large sum when you come to look at the earnings of the company, but over 50 per cent of this was because of the operation of the passenger trains, while only about 22 per cent of the earnings came from the passenger service.

Mr. STEVENS. Suppose you would have practically the same earnings, doubling the number of passengers, would the loss by accident increase in the same proportion?

Mr. HARRISON. It would, perhaps, and I take it we might have a very bad wreck. We have been fortunate in not having serious passenger wrecks for several years past.

Mr. ESCH. A certain proportion of those injury claims are by freight wrecks, are they not?

Mr. HARRISON. Yes; but more people are hit by passenger than by freight trains. You would have no idea, unless you had experience in that line—as some of you gentlemen may have—how many are injured by the stopping and starting of trains; how many people turn up with a lame back, who were standing in the middle of the aisle ready to sit down and the train started suddenly, and they sat down very suddenly—more suddenly than they expected. I have a case in mind now where a judgment of \$10,000 was rendered against us for a case of that kind, but finally we reversed the judgment, although it cost us about \$6,000.

Then we had a case in a sleeping car, where there was nobody in the sleeper but the porter and the passenger, and the porter came in and the passenger had fainted. He testified he was standing up in the aisle when a sudden jerk jarred him and he fell down. He got a very large judgment against us.

Mr. RICHARDSON. And you got it reversed?

Mr. HARRISON. No, sir. That particular one we had to pay.

Mr. RICHARDSON. What is the policy of the Louisville and Nashville in a case of this kind? The line is constructed through a sparsely-settled country, with little freight, and it is done, is it not, for the purpose of improving and developing that section of country—that is, getting sufficient freight and traffic to justify the investment?

Mr. HARRISON. Yes, sir.

Mr. RICHARDSON. Do you pay that, or go to another part of your freight or passenger business and increase the charges?

Mr. HARRISON. Our policy has always been, as I suggested a while

ago, to have a uniform rate as far as we can. Our freight rates are based on what we call our uniform mileage scale. A man in Alabama, or Kentucky, or Tennessee, or anywhere else along the line of the Louisville and Nashville Railroad, who transports his freight 100 miles gets the same rate, and it is our idea and our policy to make the passenger rates the same way.

Now and then it is true we depart from that scale. You can not have a rigid rule in railroading any more than in individual life. We may have river competition; we may have competition with other railroads; and we often have competition of products and markets—more of that than anything else. We have to do that in the Birmingham district. I suppose we have handled more traffic in that district than any other road.

Mr. RICHARDSON. You have established a great many branch roads in that Birmingham district, have you not?

Mr. HARRISON. Yes. We put on those roads our regular scale, and on every one of those branches you will find the same scale in effect, unless it has been departed from in cases where it is necessary to carry a product and the manufactured product out to these various industries in other parts of the country.

Now, continuing the answer to your question, Mr. Richardson, we built a line in Eastern Kentucky a few years ago where there are inexhaustible coal fields that were never touched before. That line was built from Corbin, Ky., to Norton, Va. It cost \$46,000 a mile, actual figures, to build. We put on that line the same freight scale as on the other lines. But we put on a 4-cent passenger rate. Only in the last two or three years has that road been making any money, but we put the 3-cent scale, passenger rate, on that road a few years ago.

Mr. RICHARDSON. Can you give me any estimate of the increase of population in the Birmingham district since the Louisville and Nashville has been building branches out in that coal land and developing that section?

Mr. HARRISON. I guess it has doubled, at least. The railroads and the people down there are both prospering together.

Mr. ADAMSON. Along that line of discussion I want to ask you about this instance: If a particular market uses a particular commodity, that is, it is a market sought for in a particular commodity, and an emergency arises on your line for that commodity, what do you do?

Mr. HARRISON. We put ourselves right in line with them.

Mr. ADAMSON. Although it might be a good deal further?

Mr. HARRISON. Yes, sir. In other words, we carry coke from Appalachia and Stonega, Va., to Birmingham, Ala., at a very low rate in order to let the ovens on our Virginia line do business; in order to let them get rid of their coke and coal. It is about 600 miles.

Mr. LOVERING. By the way, in that connection, have you suffered from the car famine this year?

Mr. HARRISON. To some extent we have. We are better equipped in that respect than most of the other roads. We have increased our equipment in the last year 100 per cent. We are not turning out an engine every two weeks and 30 cars a day.

Mr. LOVERING. Yours is a large cotton road?

Mr. HARRISON. Yes, sir, we are, pretty much; but cotton is not our biggest product.

Mr. RICHARDSON. How many cars do you turn out in a day at the Decatur Works?

Mr. HARRISON. I think it is fifteen.

Mr. RICHARDSON. Do you know what the pay roll is in the shops at Louisville?

Mr. HARRISON. I think it is a little over \$150,000 a month, and the Decatur is about two-thirds or three-fourths the size of the Louisville shop.

Mr. RICHARDSON. That shop has been located at Decatur in the last few years?

Mr. HARRISON. Yes; it has been located at Decatur for about ten years. It has been operated in full capacity for about six years. We have at Louisville one of the most modern shops in the country, and we are turning out engines very rapidly there.

Mr. RICHARDSON. Was any inducement given by the people at Decatur to locate the shops there?

Mr. HARRISON. I think perhaps the Decatur Land Company, that was at that time exploiting Decatur, probably gave them ground. I am not sure of that, however.

Mr. RICHARDSON. They manifested their desire to have the shops there?

Mr. HARRISON. Yes. Any town would be anxious to have a big concern like that, which pays big wages and employs six thousand hands, no matter what the size of the town may be.

Now, as to the increase of expenses, I had a statement made up some time ago—made up about this time last year. I wanted to bring it down to date, but have not been able to do so. It shows that in the last five years, back of 1906, the Louisville and Nashville had increased wages and salaries of its officers and employees, and especially the wages of its employees, 20 per cent over what they were formerly. The statement also showed that up to 1906, compared with the previous five years, there was an average increase in the cost of everything that usually is bought by our purchasing department of 20 per cent; everything used in the manufacture of cars, and the operation of a road, and in the building of a road. The average increase was 20 per cent. Some things were increased over that and some things less. In the last five years lumber has increased 40 or 50 per cent, and in the last two years there has been another increase in some kinds of lumber; for instance, car sills, of 100 per cent, or nearly 100 per cent. Our general manager told me the other day he was paying \$42 for car sills that two or three years ago he was paying \$25 for.

Mr. BARTLETT. That is due, is it not, to the scarcity of that kind of timber?

Mr. HARRISON. Yes, sir. You gentlemen who live in Alabama and Georgia know, perhaps, that ten or fifteen years ago that timber land down there was going begging at \$10 an acre. Now it is selling at from \$15 to \$25 an acre.

Mr. RICHARDSON. Yes. I have some knowledge of lands having been sold for much less than \$10 an acre down there that have recently greatly enhanced in price and value.

Mr. HARRISON. I was the owner of a tract at Lavilla which sold for \$15 an acre three years ago, and the manager told me the other day he would not take \$30 for it now.

Mr. RICHARDSON. In that connection, have you heard anybody com-

plain down in that section of country that the 3-cent passenger rate is two high?

Mr. HARRISON. We have some complaints in Alabama. Mr. Comer seems to think that rate is too high.

Mr. RICHARDSON. That was incidental to the campaign.

Mr. HARRISON. The only complaint has been of freight rates; the only definite complaints have been as to freight rates, and those have been on account of adjustments and not as to the rates themselves.

Mr. RICHARDSON. You mentioned the late Alabama campaign. The complaint there was about a difference in freight charges. The passenger question, so far as I know, was not mentioned. I have never heard it mentioned.

Mr. HARRISON. Perhaps it has come up lately, perhaps in a message written to the legislature, or a statement in the newspapers to the effect that a change will be demanded.

Mr. BARTLETT. In the Georgia campaign the mileage tickets were agitated in the beginning, but the agitation did not seem to awake as much of a response as the other, the freight rate question, and later on nothing was said about it; and during the campaign the railroads of their own motion did grant interchangeable mileage tickets on the railroads of Georgia.

Mr. HARRISON. We have so little mileage in Georgia that I do not know much about that, but I know that for several years we have had interchangeable mileage books, practically good all over the South, at $2\frac{1}{2}$ cents per mile. The railroad having perhaps the greatest mileage down there was disinclined to come in, probably because it was not to its advantage, but I think it has come in.

Mr. RYAN. What has been the average increase in the last five years, when you say your earnings have increased 25 per cent?

Mr. HARRISON. The net earnings have decreased.

Mr. BARTLETT. You own the Chattanooga Railroad?

Mr. HARRISON. The Louisville and Nashville owns the Chattanooga Railroad.

Mr. BARTLETT. Do you not control the Georgia Railroad?

Mr. HARRISON. The Atlantic Coast Line leased the Georgia Railroad, but the operation I speak of does not include either of those. They own the stock of the Chattanooga, and they own the lease of the Georgia Railroad; and of course whatever profit is derived from the operation of the Georgia Railroad, they get half of it. In the last four years there has been some profit. Before that there was a continual loss.

Mr. RICHARDSON. In order that you may have a fair impression respecting the condition in Alabama, I will say that Governor-elect Comer is to be inaugurated in a few days, and all railroads leading to Montgomery, the State capital, have offered to haul free of charge the troops or companies of militia that will participate in the inauguration ceremonies, and also haul at reduced rates people desiring to witness those ceremonies. This would indicate that the railroads are well disposed towards Governor-elect Comer.

Mr. HARRISON. I only knew of their campaign from reading of it in the newspapers—mostly in the Courier-Journal. With all our faults we railroad people try to be public spirited in every State we run through. We carry people to military encampments and patriotic gatherings.

Mr. ESCH. Do you manufacture rails in Birmingham?

Mr. HARRISON. Yes, sir.

Mr. ESCH. Do you know if there has been an appreciable increase in the cost of rails in the last few years?

Mr. HARRISON. They went down and then they went up again. My impression is that rails cost more than they did eight or ten years ago, but not as much as they did many years ago.

Mr. ESCH. They have really been quite constant in price for the last six or eight years?

Mr. HARRISON. Yes, sir.

Mr. ESCH. So that that would not be much of a factor in increasing the cost of materials?

Mr. HARRISON. No; except that the railroads find it necessary to have heavier rails than formerly. Whereas they used to lay 60-pound rails, they now lay 80 or 90 pound rails. The price of ties has doubled in the last few years on account of the scarcity of the timber; that is a large item.

Mr. ESCH. Do you treat your ties by creosoting?

Mr. HARRISON. Yes; but I referred to the price in the woods to the men who get them out. We are experimenting in the raising of ties where we have a little extra land, and we are planting walnut trees and catalpa trees there.

Mr. ESCH. They are rapid growers?

Mr. HARRISON. Yes, sir.

Mr. RICHARDSON. Where the density of population and traffic increases the rates decrease?

Mr. HARRISON. We claim that, and I think we can show it. I admit frankly that the passenger rates have not been decreased as much as the freight rates; but, as I tried to suggest to the committee, the passenger rates bear upon an individual or community differently from a freight rate. A discriminating freight rate affects a community seriously, because everything that goes in or comes out of that community, everything that a man eats or uses, pays tribute to that freight rate, whereas in the case of a passenger rate it is a matter of individualism.

Mr. LOVERING. About how many classes of tickets have you?

Mr. HARRISON. Generally our tickets are car tickets. We sell mileage books and round-trip tickets also.

Mr. LOVERING. Have you quarterly or annual passes?

Mr. HARRISON. We have been issuing a good many annual passes, and time passes, and things of that kind. Then we also sell in the few cities where they are called for, where there are outlying suburbs, commutation tickets and school tickets. We sell those all over the system, monthly tickets, business tickets, and family tickets, and they are very much less than 2 cents a mile.

Mr. LOVERING. When you gave the number, fifteen passengers per car, that includes all classes and deadheads?

Mr. HARRISON. Yes, and commuters. Around Louisville we have a good many, and some along the coast and around New Orleans, and also around Nashville; but as a general rule we have not the kind of county population around our cities that uses commutation tickets to a great extent. Like the other roads in the South and the country, we are continually called upon both by the needs of the company and the demands of the public and by legislation to furnish more modern a d

better appliances for the hauling of freight and passenger service. We are now engaged in double tracking some portions of the road. We are also engaged in putting in block-signals. There has been no legislation requiring us to do so, but the intention is as soon as practicable and as soon as the money can be furnished to cover the whole road with block-signals. But we are now first taking spots that seem to need it most, and we are double tracking in those places. Those things cost millions of dollars, and the money must come from somewhere.

Mr. RICHARDSON. Where do you contemplate double tracking?

Mr. HARRISON. Down near Birmingham, and also from Decatur to Montgomery.

Mr. RICHARDSON. Is it not true that you are contemplating the building of new lines this year?

Mr. HARRISON. We are completing some new lines and building some branches. We are opening up one in Kentucky as a feeder to our other lines, and lately we have opened one from Knoxville to Atlanta, and that gives to the Atlanta and Georgia country the advantage of what is known as the Jellico coal fields.

Mr. RICHARDSON. How many miles of trackage do you contemplate that the Louisville and Nashville will construct between Louisville and New Orleans in the coming year?

Mr. HARRISON. I do not know, but perhaps two hundred miles.

Mr. ADAMSON. Do you contemplate getting all or any part of the money you need for making these improvements by issuing 5,000-mile books, unlimited? What class of people would use those books—the people who now use the regular trains?

Mr. HARRISON. I think people who travel a good deal, who could afford it. The man who took only an occasional trip, and the man you get your money from, would not buy them. Our present mileage book gives a 20 per cent reduction on the ticket rates, and only about 7 per cent of our passenger traffic comes from mileage books.

Mr. ADAMSON. The casual traveler would not buy them?

Mr. HARRISON. No; it would be just as it is here in Washington. The casual traveler in Washington on a street car usually pays money instead of buying tickets. I was riding in a street car the other day and the conductor said, "Tickets?" I did not know what he meant at first. I never have bought tickets since I have been in Washington.

Mr. MANN. I advise you to do so. It is pretty economical.

Mr. HARRISON. I do not get here very often. Once in Detroit I bought six or eight tickets, and lost three of them, so that I was out by the trade. [Laughter.]

Mr. MANN. You do not mean that a 5,000 mileage book substituting 2 cents for 3 cents would be issued by your company in the near future?

Mr. HARRISON. No, sir; I do not think so.

Mr. ADAMSON. One good way to avoid legislation is to do something voluntarily yourself.

Mr. HARRISON. I have seen instances where that sort of thing has given rise to legislation, worse legislation, in the State.

Mr. RYAN. Would there be any objection by those who use them?

Mr. HARRISON. I suppose the drummers would.

Mr. RYAN. In fact there is never a demand for an increase of rates?

Mr. HARRISON. No, sir; but there is always a demand for a decrease in everything, and never for an increase. The only demand we have for

an increase is for an increase in wages. [Laughter.] Some of us are demanding increases of wages and do not get it, but the fellows that are organized get it. We have practically increased the wages of the shop men all through.

Mr. RICHARDSON. I have seen the complaint made, and perhaps it has some foundation, that where you increase the wages of the operatives and where they had to rent houses the owners correspondingly raised the rents on them.

Mr. HARRISON. Yes; everything has increased in the last few years. I know that personally. I keep house, and I figure that it costs me about 30 per cent more than it did five years ago. It may be because I am living perhaps a little better, but I do not see it.

Mr. BARTLETT. You are not alone in that.

Mr. HARRISON. No, sir.

Mr. MANN. I think there are at least three members of this committee who think our salaries are not too much. [Laughter.]

Mr. ADAMSON. Some of us did not want any more, and did not want to intimate or admit that others were worth any more than we.

Mr. RICHARDSON. Another reason is that the hotel keepers would get whatever increase we got. [Laughter.]

Mr. HARRISON. They would in Washington. The traveling man will admit that the smallest item of expense in traveling is the railroad fare. I know that to be a fact myself. If a man travels regularly the railroad fare is the smallest part of his expenses.

If a suggestion from me is in order, I think Congress ought to look carefully into all these matters, because if an evil or wrong is done there is no way to remedy it, and passenger fares, collected here and there from individuals in many cases do not affect the men injuriously who pay them, while a reduction of fares would injuriously affect the company that pays that aggregate expense. Your bill will not provide that the Government will guarantee the amount of business that will be necessary in order to get that money back, and it is not going to guarantee, as the Illinois Central has lately agreed to do, to pay a largely increased rate of wages to the operators, engineers, firemen, and others over last year.

Mr. MANN. I remember when the regular rate of fare on most of the Illinois roads was 5 cents. Under an act of the legislature of Illinois and a commission the rate was reduced to 3 cents and they claimed that it would break them up. I have no doubt they would all admit now that it was the best thing that ever happened to them.

Mr. ADAMSON. The first ticket I ever bought was 6 cents a mile.

Mr. HARRISON. I do not believe, however, with all due respect to this Committee, or any committee that has a great duty to perform, can get at the bottom of such a question as this, and can not form as good an opinion on a question of this kind as men could who have spent their lives in that business. I believe with the bill, the rate bill, passed last year, with the Interstate Commerce Commission having power to rectify individual cases, Congress ought not go ahead now and make wholesale horizontal reductions.

Mr. RICHARDSON. Do you not think it good policy to let the legislation that Congress has already enacted be tried first, and see how it develops and what its errors and defects may be?

Mr. HARRISON. Yes. I think the members of the Commission to whom high salaries are paid will become experts in this business, and

my opinion is that it would be best to let them settle the questions between the public and the railroads and give the public and the railroads a chance to get together.

Mr. RICHARDSON. The first application we have is now to change that legislation which took us several years to get through; an application to change it by a party of gentlemen before it is enforced.

Mr. HARRISON. Yes. We all know that everybody's expenses are increasing. The only thing that has decreased in the United States to my knowledge in the last twenty years has been railroad rates, both the freight and passenger, and the statistics of the Interstate Commerce Commission show that the passenger rates now charged in the United States are on the average, taking into consideration the excursion business, less than two cents a mile. They are one and nine-tenths cents, or something like that.

Now it is true, and I believe it, that if the railroads could get the same amount of travel and cut out this excursion business, and settle rates as much as possible among themselves, and fix the rates for school children and commuters' rates, they would be, on a two-cent basis, better off than they are now, and it would be easier to handle the business; but I think it would be of great detriment to the country.

Mr. ADAMSON. Ought they not to reduce in order to develop the business throughout the country, instead of having it in lumps?

Mr. HARRISON. A man who travels regularly and travels every day, who goes out in the country to live, and has an easy way to get into town, gets a commutation ticket; and then we come to the charitable institutions, and ministers of the gospel, and cases of that kind; and then along come excursions to enable people to travel; and a man who lives in an inland State, like Kentucky, for example, who has never seen the seashore or the ocean, if he can come 1,000 miles and spend two weeks for \$15—and they run them in solid trains—that is a good thing for him, and for those people generally. That is the only vacation they get.

Mr. ADAMSON. But I take it that in an excursion the facilities of education are not as great as if he can take his pleasure in his own time and go when he chooses.

Mr. HARRISON. A great many men would have \$40 to spend for their whole vacation, and would rather take their chances of taking trip of that kind in an excursion.

Mr. KENNEDY. Do any of the States in which you operate have a rate fixed by law?

Mr. HARRISON. No, sir; none of them, but every one of them has a railroad commission.

Mr. KENNEDY. Do they fix the rates?

Mr. HARRISON. No practical rate.

Mr. KENNEDY. Our State, Ohio, has a 2-cent rate.

Mr. HARRISON. Yes; we do business in your State, in the sense of terminal business alone.

Mr. KENNEDY. If a man buys a ticket at Sharon, Pa., to any point in Ohio it is 3 cents per mile. Across the State line, in Ohio, if a man buys a ticket, he will get a 2-cent rate.

Mr. HARRISON. We find it is necessary to make the same charge. In other words, we believe that if a bill of this kind should pass or go into effect we should have to make our State rate on the same basis as the interstate rate. In Kentucky, say, where we have a larger pro-

portion of our mileage, we would have to put in a 2-cent rate, and if we did so we could not sustain a 3-cent rate in Tennessee or Alabama; or if Tennessee or Alabama, or either of them, put in a 2-cent rate we could not sustain the 3-cent rate in Kentucky.

Mr. KENNEDY. When your road built the road to reach the coal field in Kentucky, was it?

Mr. HARRISON. Yes.

Mr. KENNEDY. Did you incorporate that road, or did you lease it?

Mr. HARRISON. No, sir; they built it under its own charter.

Mr. KENNEDY. The Louisville and Nashville charter?

Mr. HARRISON. Yes, sir; we are building another road under another charter. Whenever it is built we will take it over. That was done in order to get the right of way cheaply, and to keep competitors in the dark as much as possible.

Mr. RICHARDSON. Have you not some policy in the Louisville and Nashville Railroad by which emigrants or settlers coming from the Northern or Middle States are transported more cheaply than the ordinary passenger traffic?

Mr. HARRISON. We have a department which has lately been organized in the last two or three years, called the Industrial Emigration Department. The duties of the man in charge of that and of his subordinates are to exploit the advantages and features on our line of road, and that has been done especially in Alabama and Georgia; and in Alabama, since the organization has been at work, the price of land has increased from \$3 and \$5 to \$25 an acre. Much of that land recently bought by those people is used for trucking.

Mr. RICHARDSON. Have you any idea, taking the fiscal year ending June 30 last, how many settlers, not immigrants, but settlers from the Northern States—Indiana, New York, Illinois, Ohio, etc.—were carried over the Louisville and Nashville Road and were located in Alabama?

Mr. HARRISON. No, sir.

Mr. RICHARDSON. I have the figures. The number was 711 families, and they took up 42,000 acres of land. The bulk of those people came from the State of Illinois.

Mr. HARRISON. We sent a lot of them down there, and that has been in operation only about three or four years.

Mr. RYAN. You do that for future business?

Mr. HARRISON. Yes; not for pure philanthropy. It is a business proposition. It is time, I think, to recognize the fact that a railroad can not prosper without the people prospering in the territory through which it passes. The proposition of squeezing the life out of a region or community is impracticable.

Mr. RICHARDSON. You know Mr. Pratt?

Mr. HARRISON. Yes, sir. They have raised the price of land down there, and I expect you know about that better than I do.

Mr. RICHARDSON. And they have done this and greatly tended to increase the amount of cotton produced by white labor?

Mr. HARRISON. Yes; they have increased the white labor of the South.

Mr. ESCH. In some of the Western lines, or on most of the Western lines, they will sell you a 1,000-mile ticket, and when you come to surrender or turn the ticket in, or turn in the cover, they will make a rebate of \$19.50.

Mr. HARRISON. Yes, we have that.

Mr. ESCH. Is there a time limit?

Mr. HARRISON. It is usually extended for a year, but it is redeemed at face value by sending it in to the general passenger agent. It is not practicable to redeem it at every station. All the holder has to do is to put a two cent stamp on it and send it to the general passenger agent, and it is then redeemed.

Now I have some figures as to the relative population of some portions of the South—

Mr. ADAMSON. Do you redeem the balance of that ticket at 2½ cents a mile?

Mr. HARRISON. We do, or we issue it anew again.

There are three or four propositions that I want to suggest to the Committee, and without argument I will give the figures on which I base them.

First. That other things being equal, earnings on passenger business of a given road increase in proportion to the volume of traffic handled, and,

Second. That the volume of traffic increases in direct ratio to the density of population in the territory traversed, and,

Third. That the economic law that the price that can profitably be charged for a given quantity decreases in proportion to the increase in the amount sold governs passenger as well as other business, whence it follows,

Fourth. That a road operating through a thickly populated section of the country can afford to accept a lower rate per mile for passenger transportation than a road serving a comparatively sparsely settled portion of the country.

Now, the Louisville and Nashville Railroad is distinctly a Southern railroad. It was incorporated in Kentucky. It was built South, and all the lines it operates are in the South except a small portion running from Evansville, Ind., to East St. Louis, Ill., and it has a stock connection running to Chicago. But the Louisville and Nashville Railroad is a distinctively Southern railroad as a definite proposition, its proper lines being in Kentucky, Tennessee, and Alabama, and it having also lines in North Carolina, Illinois and Indiana, and having terminals in Ohio and Missouri. It also has 66 miles of railroad in the State of Virginia.

I have made a table showing the comparison of results of operations of roads in the New England States and Middle States, the South Atlantic States, the Gulf and Mississippi Valley States.

It may be assumed, in view of the fact that certain roads operating in New England and Eastern States have adopted a maximum rate of 2 cents per mile for passenger transportation, that such rate is not unreasonable on such roads; but it does not follow that such rate would be reasonable or just on other roads serving a different section of the country where the circumstances and conditions surrounding the traffic, especially so far as density of population, amount of travel, earnings from passenger transportation, etc., are concerned, are substantially dissimilar. Hence it remains to show the totally dissimilar conditions surrounding the transportation of passenger traffic in Southern States from those controlling in the New England and Eastern States.

The following comparisons of results of operations of roads in the New England and Middle States with those in the South Atlantic and

Gulf and Mississippi Valley States (as enumerated below) during the year 1905, have been taken from Poor's Manual of Railroads for 1906, and are reproduced for the purpose of showing the dissimilarity between conditions in the Southern States and those in the Eastern and New England States.

The groups mentioned are [reads]:

New England States.—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

Middle States.—New York, New Jersey, Pennsylvania, Delaware, and Maryland.

South Atlantic States.—Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida.

Gulf and Mississippi Valley States.—Alabama, Mississippi, Kentucky, Tennessee, and Louisiana.

The following shows the length of roads in operation, the number of passengers carried, and the average number of passengers carried per mile of railroad during the year 1905 in the United States, in the New England States, in the Middle States, in the South Atlantic States, and in the Gulf and Mississippi Valley States:

	Length of roads in operation.	Number of passengers carried.	Average number of passengers per mile of road.
United States.....	213,635	745,446,641	3,489
New England States.....	7,922	125,614,430	15,856
Middle States.....	26,954	291,117,696	10,800
South Atlantic States.....	25,781	38,011,809	1,474
Gulf and Mississippi Valley States.....	11,473	21,643,000	1,886

This table shows, gentlemen, that while the roads in the New England States and in the Middle States are the only ones, I understand, that on account of business purposes or business considerations, for reasons of their own, have put the 2 cents a mile rate into effect, I assume that in doing that they find it possible to exist and make a profit at that rate. That is the principal reason why I compare the territory of those lines with the Southern States to show the density of traffic.

The above table also shows that the mileage of roads in the New England States was only 3.71 per cent of the total mileage in the United States, while the number of passengers carried by roads in the New England States was 16.85 per cent of the total number of passengers carried in the United States.

In other words, they carried five times as many passengers as they would carry if each part of the country was equally populous.

Mr. ADAMSON. The average?

Mr. HARRISON. Yes. It shows, too, that the mileage of roads in the Middle States was only 12.62 per cent of the total mileage in the United States, while the number of passengers carried by roads in the Middle States was 39.05 per cent of the total number of passengers carried in the United States.

It shows that the mileage of roads in the South Atlantic States was 12.07 per cent of the total mileage in the United States, although the number of passengers carried by the roads in the South Atlantic States was only 5.10 per cent of the total number of passengers carried in the United States.

It shows that the mileage of roads in the Gulf and Mississippi Valley States was 5.37 per cent of the total mileage in the United States,

although the number of passengers carried by roads in the Gulf and Mississippi Valley States was only 2.77 per cent of the total number of passengers carried in the United States.

Further, it shows that the average number of passengers carried per mile of road in the New England States was 4.54 times as many as the average number of passengers carried per mile of road in the United States, and that the average number of passengers carried per mile of road in the Middle States was 3.09 times as many as the average number of passengers carried per mile of road in the United States, while the average number of passengers carried per mile of road in the South Atlantic States was only 0.42, and in the Gulf and Mississippi Valley States only 0.53 times as many as the average number of passengers carried per mile of road in the United States generally.

Now, compare the districts and sections to which I have called attention with each other.

Mr. SHERMAN. If it will not interrupt you, let me ask you right there: Is it not a fact that in some of the sections you refer to, for instance, your territory from Louisville to the Gulf, there is a section in which the average passenger would not travel very much farther than the average passenger would travel in the New England States?

Mr. HARRISON. That is a fact.

Mr. ADAMSON. Yet you tabulate it per mile?

Mr. HARRISON. Yes.

Mr. SHERMAN. But you are not giving it per mile.

Mr. HARRISON. I will give it. These figures are taken from Poors' Manual and the reports of the Interstate Commerce Commission. Now, this table which I will file with the committee, with your permission, also shows that while the number of miles of road in operation in the South Atlantic States was 3.26 times as many, and in the Gulf and Mississippi Valley States 1.48 times as many, as the number of miles of road in operation in the New England States, yet the number of passengers carried by roads in the New England States was 3.3 times as many as in the South Atlantic States, and 5.3 times as many as in the Gulf and Mississippi Valley States; and that the average number of passengers carried per mile of road in the New England States was 10.7 times as many as the average number per mile of road in the South Atlantic States, and 5.19 times as many as the average number carried per mile of road in the Gulf and Mississippi Valley States.

Mr. SHERMAN. Is not the conclusion to be drawn from those figures, then, either that you are not charging enough, or that the railroads in certain other sections of the country, to which you refer, are charging vastly more than they should, according to your argument?

Mr. HARRISON. No, sir; I do not think so. We are simply showing not that the railroads there charge too much, but that our railroads are not charging too much. I think it is not assumed that because a railroad makes money it is charging too much, any more than any other business, because you ought to look at the value of the service that is being rendered to the man, and I presume those roads you refer to are giving good service for value received for 2 cents a mile; as good service for 2 cents a mile as we claim in respect to the service rendered for 3 cents a mile.

Mr. RYAN. On the basis of that calculation you ought to get from eight to ten times as much as they get in New England.

Mr. HARRISON. Yes; if that were the only controlling feature. But I am giving that to show the wide divergence of circumstances throughout the country, and to show how unjust it would be to make a hard-and-fast rule and say that we in the Southern States should be governed by the same conditions as obtain in New England.

Mr. BARTLETT. That is on the principle that a man having more customers will make more money?

Mr. HARRISON. Yes. If a man sells a thousand dollars' worth of groceries a month, he is bound to sell them at a greater gross profit than a man who sells only one hundred dollars' worth.

Mr. SHERMAN. That does not include the right of way?

Mr. HARRISON. No, sir.

Mr. ADAMSON. You lose sight of the public function which the railroads perform.

Mr. HARRISON. No, sir; I do not.

Mr. ADAMSON. The railroad is a quasi-public institution, and is required to perform a certain public function.

Mr. HARRISON. I say that the railroad is entitled to its hire.

Mr. ADAMSON. You said that the fact that a man was making money did not show that he was charging too much?

Mr. HARRISON. Yes.

Mr. ADAMSON. But the people who primarily grant the franchises to the road, the road being a public institution, have the right to use it at a proper rate.

Mr. HARRISON. Yes. I take this position, that a railroad company has the right to charge only a reasonable rate for the service it performs, whether it makes or loses money. If it can not stay in business at a reasonable rate, let it go out of business. If another management comes in and can make money and still treat its people fairly, I say the fact that it does make money is no valid reason for cutting down the rate. After all, there are a great many things that must be taken into consideration in arriving at what is a reasonable rate, and when that is arrived at the railroad company has the right to charge that, and no more, and no less.

Mr. ADAMSON. If it makes an undue profit from the people on whom it lives, there should be an inquiry about it.

Mr. HARRISON. If it makes an outrageous profit it should be looked into.

Mr. ADAMSON. I do not mean an outrageous profit, but a profit out of proper proportion.

Mr. HARRISON. I do not think you will find one that does that.

Mr. SHERMAN. Do you not think we ought to have furnished, by some of these gentlemen, certain other facts than these you now present? For instance, the fact that the average price per acre would be \$30 per acre between New York and New Haven, on the New Haven road? In some localities it would be \$3,000. The cost of construction between New York and New Haven is perhaps the most expensive in the world. There are 75 miles where there is not a single grade crossing. Do you not think that those facts ought also to be presented here?

Mr. HARRISON. Yes, sir; and that was exactly the point I was making awhile ago in suggesting that a legislative committee should not attempt to make a horizontal reduction of rates as a whole, because it is absolutely impossible to give all those facts. I could work a year upon

those facts and still not get to the bottom of them. We have to give you what we can.

Here you have, in the Interstate Commerce Commission, a trained body that has the right to remedy these things, and who do not have to make a horizontal or rigid rule, and who can make a particular case fit the circumstances of that case. That is why I claim there ought not to be any law or legislation on the subject. You might ask the Interstate Commerce Commission to investigate or find out what could be done and report to Congress, to let them change it.

Mr. KENNEDY. That body takes up these matters on the complaint of the individual passenger.

Mr. HARRISON. If anybody is hurt in this country by passenger rates, they will howl all right.

Mr. SHERMAN. They have howled.

Mr. KENNEDY. They are howling out in our section; but the trouble is, no one makes a complaint to the Interstate Commerce Commission.

Mr. HARRISON. Yes; people make complaints about things without making a study of the subject.

Mr. KENNEDY. We have a 2-cent rate in Ohio flat, whether you buy a ticket or not; but when you go across the State line they immediately tax us more. Whenever we get outside of Ohio we are taxed more.

Mr. HARRISON. Now this table shows, further, that, while the number of miles of road in operation in the South Atlantic States was about the same, being only 4.4 per cent less, and in the Gulf and Mississippi Valley States was 42 per cent, as much as the number of miles of road in operation in the Middle States, yet the number of passengers carried in the Middle States was 7.6 times as many as carried in the South Atlantic States, and 13.3 times as many as carried in the Gulf and Mississippi Valley States. It also shows that the average number of passengers carried per mile of road in the Middle States was 7.3 times as many as in the South Atlantic States and 5.7 times as many as in the Gulf and Mississippi Valley States.

The above clearly proves that the density of passenger traffic in the New England and Middle States is materially and even radically greater than in the Southern States, whence it follows that it would be manifestly unjust to compel the roads operating in said Southern States to maintain as low a rate on passenger traffic as can be operated by roads serving the thickly-populated New England and Middle States.

As further illustrating the dissimilarity between the passenger traffic in the New England and Eastern States, and in the Southern States, there is shown below the length of roads in operation, the gross passenger earnings and the average passenger earnings per mile of road during the year 1905 in the United States, in the New England States, in the Middle States, in the South Atlantic States, and in the Gulf and Mississippi Valley States [reads]:

	Length of roads in operation.	Gross passenger earnings.	Average receipts per mile of road.
	<i>Miles.</i>		
United States.....	213,636	\$484,929,076	\$2,299
New England States.....	7,922	39,422,607	4,976
Middle States.....	26,964	124,137,841	4,606
South Atlantic States.....	25,781	36,582,066	1,418
Gulf and Mississippi Valley States.....	11,473	19,943,402	1,738

The above data shows that although the mileage of roads operated in the New England States was only 3.71 per cent of the total mileage in the United States, yet the gross passenger earnings in the New England States were 8.1 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of road in the New England States were 119.3 per cent greater than the average receipts per mile of road in the United States.

It shows that although the mileage of roads operated in the Middle States was only 12.62 per cent of the total mileage in the United States, yet the gross passengers earnings in the Middle States were 25.7 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of road in the Middle States were 103 per cent greater than the average receipts per mile of road in the United States.

It shows that although the mileage of roads in the South Atlantic States was 12.07 per cent of the total mileage operated in the United States, yet the gross passenger earnings in the South Atlantic States were only 7.5 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of roads in the South Atlantic States were 37.5 per cent lower than the average receipts per mile of roads in the United States.

It shows that although the mileage of roads in the Gulf and Mississippi Valley States was 5.37 per cent of the total mileage in the United States, yet the gross passenger earnings in the Gulf and Mississippi Valley States were only 4.1 per cent of the total gross passenger earnings in the United States, and the average receipts per mile of roads in the Gulf and Mississippi Valley States were 23.4 per cent lower than the average receipts per mile of roads in the United States.

It also shows that although the mileage of roads in the South Atlantic States was 225.4 per cent and in the Gulf and Mississippi Valley States 44.8 per cent greater than the mileage of roads in the New England States, yet the gross passenger earnings of roads in the South Atlantic States were 7.2 per cent and in the Gulf and Mississippi Valley States 49.4 per cent lower than the gross passenger earnings of roads in the New England States, and the average receipts per mile of roads in the South Atlantic States were 71.5 per cent and in the Gulf and Mississippi Valley States 65.1 per cent lower than the average receipts per mile of roads in the New England States.

It also shows that although the mileage of roads in the South Atlantic States was only 4.4 per cent and in the Gulf and Mississippi Valley States 57.4 per cent lower than the mileage of roads in the Middle States, yet the gross passenger earnings of roads in the South Atlantic States were 70.5 per cent and in the Gulf and Mississippi Valley States 83.9 per cent lower than the gross passenger earnings of roads in the Middle States, and the average receipts per mile of roads in the South Atlantic States were 69.2 per cent and in the Gulf and Mississippi Valley States 62.2 per cent lower than the average receipts per mile of roads in the Middle States.

In other words, gentlemen, the table shows that the New England States, with 7,900 miles of road, earn \$39,422,000, an average of \$4,796 per mile of road, whereas the Gulf and Mississippi States, with 11,000 miles of road, earn only \$19,000,000—about a third as much per mile of road.

Mr. SHERMAN. Can you tell, Mr. Harrison, what is the capitaliza-

tion of the roads and the bonded indebtedness of the roads in those two groups?

Mr. HARRISON. I can get that. I have not got it now. I think that it is probably higher in the New England States.

Mr. SHERMAN. Yes; they must be vastly higher.

Mr. HARRISON. I think some of our Southern roads are highly bonded, also.

Mr. SHERMAN. What is the average bonding of the Louisville and Nashville?

Mr. HARRISON. About \$24,000,000.

Mr. SHERMAN. What is the capital?

Mr. HARRISON. About \$60,000,000.

Mr. STEVENS. Do you take the capital into account in fixing your rates?

Mr. HARRISON. No, sir.

Mr. STEVENS. Do you know of that being done?

Mr. HARRISON. No, sir. The only way to do is to go to the end of the year and count your expenses and see how much you have. Nobody can predict in advance the number of carloads of freight, or the number of passengers that would offer.

Mr. BURKE. I intended to ask you the same question that we asked of Mr. Nicholson. He gave us the earnings on the net passenger business. One of these questions was: To what account are the charges for damages which occur debited? How are those charges located? How are they charged?

Mr. HARRISON. In our road the damages are charged to the train that hits the person damaged. If a man or woman gets on or off at a station, if we settle with him or her—if, for example, that occurs at Elizabethtown, Ky., a town on the main line, it is debited or counted against the passenger account, main division.

Mr. BURKE. It is charged to the passenger account?

Mr. HARRISON. Yes; and if it were a freight, it would be charged to the freight account.

Mr. BURKE. Is that system uniform?

Mr. HARRISON. It is on our road. While 23 per cent of our earnings are passenger, as against 77 per cent of freight, over 50 per cent of injury expenses are for passenger trains.

Mr. BURKE. Take a wreck, for example, such as happened here on the Baltimore and Ohio recently. In case they pay damages, will that be charged to the passenger account of the company?

Mr. HARRISON. So far as the books are concerned, it would show in the comptroller's report to the president and stockholders as an item charged to the passenger traffic, and it would show in the passenger expenses.

Mr. BARTLETT. If a person were hit at a crossing, how would it be charged?

Mr. HARRISON. It would be charged to the train that hit him. Sometimes a man will be found alongside the road dead or hurt, and we do not know what kind of a train hit him. That is charged on an arbitrary division, or sometimes it is charged on train mileage. It is absolutely impossible in such cases to get the details of all of them.

[Thereupon, at 12 o'clock noon, the committee adjourned until 10.30 o'clock to-morrow morning, Friday, January 11, 1907.]

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Friday, January 11, 1907.

The committee this day met at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. Mr. Harrison, if you will proceed now we will hear you. This is our regular meeting day, and we have a little business to transact aside from the hearing.

STATEMENT OF MR. T. B. HARRISON, JR., OF LOUISVILLE, KY.—
Concluded.

Mr. HARRISON. I will not keep you more than five or ten minutes, Mr. Chairman.

The CHAIRMAN. I am not speaking with reference to that idea, but I was simply going to say that we might have to interrupt you before you finished.

Mr. HARRISON. Yes, sir; I am practically through.

The CHAIRMAN. Take your own time.

Mr. HARRISON. Yes, sir. Just before I concluded yesterday, one of the members of the Committee asked me whether the earnings—I was reading from tables showing the passenger earnings in various parts of the country and comparing especially those in the Eastern, Middle, Southern and Gulf, and Mississippi Valley States—one of the members asked me whether the freight or total earnings bore the same comparison in those States as the passenger earnings that I gave. I was not able at that time to give the information, but I have, by referring to the statistical report of the Interstate Commerce Commission for 1904, which is the last published statistical report of that Commission, ascertained that the total earnings of the railroads in those States bear the same relation practically as the passenger earnings, to which I called your attention yesterday. They are practically the same States, though not exactly the same. I divided, you know, the States up into groups, embracing, respectively, New England, the Middle States, the South Atlantic States, and the Gulf and Mississippi Valley States.

The Interstate Commerce Commission, however, divides the States up into somewhat different statistical groups, Group No. 1 being composed of the New England States; Group No. 2 being composed of New York, Pennsylvania, New Jersey, Delaware, and Maryland, substantially; Group No. 3 of Ohio, Indiana, part of Michigan, and a little part of Pennsylvania; Group No. 4 being composed of Virginia and West Virginia, and North and South Carolina, and Group No. 5 being composed of Kentucky, Tennessee, Georgia, Alabama, Florida, and Mississippi, and, it seems, a small portion of Louisiana. All lines of the Louisville and Nashville Railroad were incorporated in Group No. 5 except that portion of the line between Evansville, Ind., and St. Louis, which is in Group No. 3—

Mr. ESCH. And also your Virginia line?

Mr. HARRISON. Yes, and in the Virginia line, which is in Group No. 4.

Now, if you will refer to the condensed income account by groups, on page 81 of the statistical report of the Interstate Commerce Commission, you will see that the earnings, both gross and net income from

operation, correspond, and after taking total deductions from income and adding to the income from operation the income from other sources—I will not take up the time of the committee to read these figures—you will see that the comparison is carried out. The income from operation in these groups, particularly Groups No. 4 and No. 5, is much less than for the other groups, and the total income is much less, both their total and per mile of line, and the total net income, after all deductions, is very much less than on these groups Nos. 1, 2 and 3, thus carrying out the comparison that I was trying to make yesterday.

Condensed income account for the year ending June 30, 1904, classified by territorial groups

CONDENSED INCOME ACCOUNT, BY GROUPS.

Item.	Group I. (8,068.26 miles of line represented.)		Group II. (23,022.10 miles of line represented.)		Group III. (24,967.51 miles of line represented.)	
	Amount.	Per mile of line oper- ated.	Amount.	Per mile of line oper- ated.	Amount.	Per mile of line oper- ated.
Gross earnings from operation.....	\$112,840,810	\$13,994	\$464,760,717	\$20,187	\$296,076,749	\$11,868
Less operating expenses	82,766,520	10,264	312,576,882	13,577	220,636,807	8,840
Income from operation	30,074,290	3,730	152,183,835	6,610	75,439,942	3,028
Income from other sources	15,945,933	1,977	67,507,960	2,938	27,016,201	1,082
Total income	46,020,223	5,707	219,691,795	9,543	102,456,143	4,105
Total deductions from income.....	29,098,000	3,608	151,598,080	6,585	72,770,274	2,916
Net income	16,927,223	2,099	68,093,755	2,958	29,685,869	1,189
Total dividends (including "Other payments from net income").....	17,830,516	2,211	55,105,191	2,394	a 26,032,697	1,048
Surplus from operations	b 908,293	b 112	12,988,564	564	3,653,172	146

Item.	Group IV. (12,192.19 miles of line represented.)		Group V. (23,647.32 miles of line represented.)	
	Amount.	Per mile of line oper- ated.	Amount.	Per mile of line oper- ated.
Gross earnings from operation	\$85,249,421	\$6,992	\$159,278,456	\$6,679
Less operating expenses	54,572,064	4,476	112,540,356	4,719
Income from operation	30,677,357	2,516	46,738,101	1,960
Income from other sources	3,823,830	314	10,218,886	428
Total income	34,501,187	2,830	56,956,987	2,388
Total deductions from income.....	22,748,407	1,866	41,304,993	1,732
Net income	11,752,780	964	15,651,994	656
Total dividends (including "Other payment from net income")	c 7,064,674	579	8,334,154	349
Surplus from operations	4,688,106	385	7,317,840	307

a Includes \$4,925, "Other payments from net income."

c Includes \$32,806, "Other payments from net income."

b Deficit.

Now I have another table which I would like to file with the committee, if I may be permitted, showing the population per square mile in the various States involved with the question I have been trying to present.

Comparative density of population of the State of Ohio and of counties of Michigan and New York on lines of the Lake Shore and Michigan Southern, Michigan Central, and New York Central and Hudson River railroads, where the rates for transportation of passengers are based on 2 cents per mile, and of the States comprised in group 5 of the Interstate Commerce Commission's report for fiscal year ending June 30, 1904.

	Popula- tion.	Square miles.		Popula- tion.	Square miles.
NEW YORK.			MICHIGAN—Continued.		
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.			MICHIGAN CENTRAL—con.		
<i>County.</i>			<i>County—Continued.</i>		
Albany.....	165,571	528	Cass.....	20,080	500
Cayuga.....	66,234	722	Jackson.....	47,122	695
Columbia.....	43,211	647	St. Joseph.....	23,229	506
Dutchess.....	81,670	800	Washtenaw.....	46,776	690
Erie.....	433,686	1,040	Wayne.....	386,827	626
Genesee.....	34,561	484	Monroe.....	32,921	571
Herkimer.....	51,049	1,426	Average population per square mile, 127.	679,655	5,366
Madison.....	40,545	649	<i>State.</i>		
Monroe.....	217,854	643	Alabama.....	1,828,697	51,540
Montgomery.....	47,488	399	Florida.....	528,542	54,240
New York.....	2,050,600	63	Georgia.....	2,323,635	58,980
Niagara.....	74,961	522	Kentucky.....	2,147,174	40,000
Oneida.....	132,800	1,180	Mississippi.....	1,551,270	46,340
Onondaga.....	168,736	794	Tennessee.....	2,020,616	41,750
Ontario.....	49,605	652	Average population per square mile, 35.	10,399,934	292,850
Orleans.....	30,164	396	LAKE SHORE AND MICHIGAN SOUTHERN.		
Putnam.....	13,787	239	<i>County.</i>		
Rensselaer.....	121,697	664	Branch.....	26,397	504
Schenectady.....	46,852	210	Hillsdale.....	29,837	605
Seneca.....	28,114	328	Jackson.....	47,122	695
Wayne.....	48,660	624	Lenawee.....	49,097	742
Westchester.....	184,257	450	Monroe.....	32,921	572
Average population per square mile, 307.			Washtenaw.....	46,776	690
Average population per square mile, excluding New York County and Greater New York, 155.	4,132,101	13,460	Wayne.....	386,827	626
MICHIGAN.			St. Joseph.....	23,229	506
MICHIGAN CENTRAL.			Average population per square mile, 130.	642,306	4,940
<i>County.</i>			<i>State.</i>		
Berrien.....	43,390	566	Ohio.....	4,157,545	40,760
Branch.....	26,397	504	Average population per square mile, 102.		
Calhoun.....	52,963	697			

Mr. GAINES. What are those figures?

Mr. HARRISON. They are figures showing the density of population per square mile in the various States, based on the tabulation taken from page 81 of the statistics of railways in the United States, for 1904, published by the Interstate Commerce Commission.

We think another well-defined railroad principle is that the cost of the railroad traffic increases as the density of the traffic decreases; and I have here a report published by the Interstate Commerce Commission which shows the number of passengers carried per passenger locomotive and the number of passenger cars.

This table [producing table] shows the number of passengers carried per passenger locomotive and the number of passenger cars used for each 1,000,000 passengers carried in the New England, Middle, South Atlantic and Gulf and Mississippi Valley States during the year ending June 30, 1904; figures taken from the statistics of railways in the United States for the year 1904, as published by the Interstate Commerce Commission, which is the last available data.

	Passengers carried per passenger locomotive.	Passenger cars per 1,000,000 passengers carried.
New England States	97,294	39
Middle States	87,276	43
South Atlantic States	44,095	90
Gulf and Mississippi Valley States	45,876	79

The following table shows the approximate losses to the railroads in the South Atlantic and Gulf and Mississippi Valley States if the two cent passenger rate were put into effect, based on result of operations during the year 1904 as published by the Interstate Commerce Commission:

	South Atlantic States.	Gulf and Mis- sissippi Valley States.
Number of passengers carried 1 mile	697,273,338	1,418,824,060
Maximum earnings thereon at 2 cents per mile.....	\$13,945,466.76	\$28,376,481.20
Actual passenger earnings during year 1904.....	\$16,744,066.00	\$33,892,405.00
Less earnings at 2-cent rate.....	\$13,945,466.76	\$28,376,481.20
Reduction in revenue	\$2,798,599.24	\$5,415,923.80

Making an aggregate annual approximate reduction in the revenue of the roads operating in territory south of the Ohio and Potomac rivers and east of the Mississippi River \$8,214,523.04.

The real reduction will almost surely be more than the amount estimated above, because of the fact that in estimating the maximum earnings under a 2-cent rate bill the estimate is based upon getting 2 cents per mile for each passenger; in other words, it is based upon a minimum rate of 2 cents per mile. As a matter of fact, it is believed that it will be impossible to get a minimum of 2 cents per mile, and it is confidently believed that the Southern roads would suffer a loss in revenue of at least \$10,000,000 per annum if a 2-cent rate bill were put into effect.

We think that the actual reduction will be considerably more than that, because in figuring up the maximum earnings at 2 cents a mile I also figure that as a minimum. We do not believe, however, that any railroad under the 2-cent rate bill would be able to get a minimum of 2 cents when they have to carry, as I explained yesterday, these excursion trains at 1 and $1\frac{1}{2}$ and $1\frac{1}{2}$ cents, and clergymen and schools at special rates, and carry at other rates based on the $1\frac{1}{2}$ fare, as well as short runs in cities and monthly rates, and things of that sort; so that from the best calculation I can make I believe that the Southern roads would suffer a loss of revenue of not less than \$10,000,000 a year if the 2-cent rate bill went into effect without having any way of recouping that loss, and without a possible reduction in expense account.

Mr. CUSHMAN. When you say southern railroads you mean what?

Mr. HARRISON. I mean the railroads in the South Atlantic States, Gulf States, and Mississippi Valley States. Of course, other roads in other parts of the country would suffer equally, if not more, and that shows some of the force of the suggestion I was endeavoring to make to the committee, that a great big loss would result all over the country, and neither the committee nor anyone else can tell what it would be; and after the damage is done, there is no way of getting away from it.

Mr. GAINES. If it would not interrupt you, Mr. Harrison. You say that the enactment of the 2-cent rate bill would result in a loss to the Southern roads of \$10,000,000?

Mr. HARRISON. Yes, sir.

Mr. GAINES. That reduction would be a reduction of practically 1 cent in the rate. Would that amount to \$10,000,000?

Mr. HARRISON. It would hardly be $33\frac{1}{3}$ per cent. On some roads it would be considerably more than a cent, while on some it would be less. On our roads we figure it would be about $22\frac{1}{2}$ per cent; that is, the reduction on the face of the bill would be at about that rate, because our average is $2\frac{1}{2}$ cents per mile.

We have a maximum rate of 3 cents, as I explained yesterday, but we do not get that average. We feel that the effect of the reduction would be to put the rate below 2 cents; but, making the reduction, it would be about $22\frac{1}{2}$ per cent, not a full reduction of $33\frac{1}{3}$ per cent, as would appear by reducing the rate from 3 cents to 2 cents. But we feel that at a 2-cent rate we would have to figure out the other rates according to the basis of the straight ticket, and that they would be correspondingly reduced.

I have not tried to make a comparison of the Louisville and Nashville or any other particular railroad, because all I have said I hope will be taken as having been said for the good of the general cause. But it may be interesting to show a page taken from our annual report to the stockholders for the fiscal year ending June 30, 1906, as showing the increase in the expense of handling the passenger business for that year as compared with the previous year. I will file those figures with the secretary of the committee without reading them. But the table shows that while for the corresponding period of 1904 and 1905 the expenses of passenger trains increased 22 per cent, the percentage of earnings increased 16.6 per cent, thus forcibly illustrating that it is because of the fact of the increased cost of operation.

Mr. ESCH. When you say "years 1904-5" you mean fiscal years?

Mr. HARRISON. Yes. Whenever I say 1904 I mean the fiscal year ending June 30 of that year, and the same with respect to the years 1905 and 1906. In all cases I mean the fiscal year. This table shows all the items going into the cost of passenger operation:

Comparison of Groups I, II, III, and V, based on report of Interstate Commerce Commission for year ending June 30, 1904.

Miles of line represented.	Group I, 8,063.26.	Group II, 23,022.10.	Group III, 24,967.51.	Group V, 23,647.32.
Average population per square mile....	101	160	69	35
Page 24: Passenger cars per one million passengers carried	39	43	63	79
Passengers carried per passenger locomotive	97.294	87.275	50.567	45.876
Page 72: Passenger train mileage	36,569,906	102,066,302	65,301,278	37,090,923
Passengers carried	120,644,694	265,666,394	77,302,348	36,012,411
Passengers carried 1 mile	2,328,486,520	5,704,473,185	2,992,946,915	1,418,824,360
Passengers carried 1 mile per mile of line	286,513	246,552	120,548	59,927
Average number of passengers in train	62	54	44	34
Page 98: Revenue per passenger per mile....	\$0.01787	\$0.01751	\$0.02008	\$0.02365
Average revenue from each passenger carried34520	.37802	.78591	.96482
Revenue per train mile, passenger trains	1.29287	1.13937	1.12896	.99278
Passenger earnings per mile of road.	6,015.57	5,228.34	3,054.44	1,750.47

Now, some member of the committee asked me about the railroad building in 1906. Here is a copy of the Railroad Gazette of Friday, December 28, 1906, which purports to give the railroads built in 1906 by States and companies as compared with the building in 1905. With the permission of the committee I will file that also.

The CHAIRMAN. Just mark what you desire to have printed.

Mr. HARRISON. Yes, sir. That is comparatively accurate, I suppose, and it will show the railroads built and the States in which they were built.

Some question was also asked yesterday as to the equipment of cars. We, like the other railroads in the South, have been overrun with business to a great extent, but especially with freight business. I want, however, to suggest to the committee that our road has tried to get the necessary equipment to carry on its business, and I believe it has succeeded as well as any other railroad in the country, and has had as little trouble over lack of facilities as any other, and it has had absolutely no lack of facilities as to passenger business; and all this stir that you hear about, complaints as to shortage of cars, and inability to handle business, does not apply to passenger cars or to inability to handle passenger business, but to freight. That is caused, probably, by the fact that none of the passenger cars are filled to their capacity, whereas the freight cars are. In the last ten years we have practically increased our freight equipment 100 per cent. Of course the passenger equipment has probably been increased 20 per cent, or something like that.

Mr. LOVERING. What is the principal article of product that you transport?

Mr. HARRISON. I think coal or iron. Our traffic is pretty well diversified.

Mr. WANGER. Is it not another reason why there is no such shortage of passenger cars, that every company owning the passenger cars has control over them constantly?

Mr. HARRISON. That may help some; yes, sir; most of the passenger cars, except Pullmans occasionally, here and there. A passenger car stays on your line of road, whereas your freight cars get off, and some of the roads do not return them.

Mr. WANGER. Do not some of the roads lie down on other roads in the matter of freight cars?

Mr. HARRISON. That is claimed to be done; and sometimes we put an embargo on our cars and do not let them go off the line. Sometimes it is necessary to do that in order to protect the business that originates on the line. For instance, sometimes we will not let our coal cars go on the line of some other road; and I take it that I can say without danger of contradiction that the coal supply of the States served on the Louisville and Nashville has perhaps been better served than that in any other part of the country. It is a better service.

The CHAIRMAN. Are you allowed to do that under the interstate commerce law?

Mr. HARRISON. We get around that. We do not make an absolute iron rule about it. For instance, where there is an apparent shortage of coal, we will not furnish our cars to go from the Kentucky coal field to Chicago, because if a coal car gets to Chicago it is

lost just as though it were submerged in the sands of the sea. It is like a diamond that you drop on the street. You would never find it again. We have to do that in order to protect our own territory.

Mr. GAINES. Have you all your coal marketable originating on the Louisville and Nashville, without making other connections? Do you supply the Big Four?

Mr. HARRISON. Yes; we have been going to Cincinnati, and principally to Evansville, Ind.

The CHAIRMAN. How would you conduct an interstate commerce business on the basis you speak of, provided all other carriers entertained the opinion you do?

Mr. HARRISON. We need not do it, possibly, Mr. Chairman, except as the lines of the roads themselves are interested. That is only done in exceptional cases when things get blocked. That is, in such an exigency you just take a strong hand and put it on the situation and remedy it. The necessities of the case require it.

The CHAIRMAN. Is there no arrangement by which the companies participating in the business can secure the return of your cars?

Mr. HARRISON. We can always get promises, and very often we get the cars returned; but very often not; and I think the operating department of other roads perhaps say the same thing about us. [Laughter.] I had a case before the Kentucky commission several years ago where we declined to exchange coal cars with a company only 4 miles from our line. We made an agreement that the cars should be returned promptly. We found on experience that it took 27 days to return cars from that 4 miles.

The CHAIRMAN. An honorable man does not want to violate his promises. What emergency or reason is there for the creation of these violations of agreements and pledges as to the return of cars?

Mr. HARRISON. I do not know, sir. I suppose cars get off a line of road, get into a big freight terminal, and the superintendents and car managers and the local force want a car to load it for some point, and they see that car there, and they take it and load it and away it goes.

Mr. ADAMSON. What reason was there for delaying 27 days in returning the cars you speak of?

Mr. HARRISON. That was a small railroad, and they turned the cars over to points on the Southern Railway to the south. The Southern did not know where they belonged. When they came back they would perhaps be loaded anew and sent off somewhere else.

Mr. GAINES. What is the amount of "arbitrary" that one railroad pays to another for the use of its freight cars?

Mr. HARRISON. They had a per diem arrangement of 20 cents a day, and at the end of thirty days a dollar a day.

Mr. GAINES. What is it increased to now?

Mr. HARRISON. From 35 to 50 cents per day; perhaps 50 cents. Do you know Mr. Boyd?

Mr. BOYD. No.

Mr. HARRISON. They had a meeting recently in Chicago, and they—

Mr. GAINES. Why will not the railroads make an "arbitrary" sufficiently large to make it profitable to return a car and unprofitable to keep it?

Mr. HARRISON. I think some railroads are anxious to make the return, but others are not.

Mr. GAINES. Pardon me a moment: Take the case of the Chesapeake and Ohio. The shippers along that line can not supply the Western coal market unless the cars of the Chesapeake and Ohio are permitted to go West, and yet when the cars of the Chesapeake and Ohio are permitted to go West they do not see them any more. The day's runs for the miners and operators become fewer, and the transportation of the coal goes up to an unnecessarily high price, and it is not profitable to the man that ships it.

Mr. ADAMSON. I suppose the objection comes from the road that would have to pay the balance.

Mr. CUSHMAN. This charge of 50 cents a day for the use of a car of another company is not supposed to represent the adequate value, is it?

Mr. HARRISON. No, sir.

Mr. CUSHMAN. Why is it, then, that a less amount like that is agreed upon—less than the value?

Mr. HARRISON. I am not an operating man. I suppose it is just a matter of agreement. They used to have a mileage arrangement—three-fourths of a cent a mile, or something like that—then they changed it to this per diem. The reason I do not understand.

Mr. CUSHMAN. The idea is, that if a fixed charge like that is adopted for all roads, it is as fair for one as for another, whether it be too high or too low?

Mr. HARRISON. I take it that is the idea. I see that in the fiscal years 1896 and 1897 we had 19,660 freight cars, and for the fiscal year ending June 30, 1905, and June 30, 1906, we had 36,633 freight cars.

Mr. WANGER. Is the mileage of those years?

Mr. HARRISON. The mileage in 1906 has been increased not as much as the car supply, but it has been increased a good deal. The mileage in 1896 was 2,980.93. In 1906 it was 4,130.91, an increase of about 1,300 miles. We are, however, increasing now the freight equipment very much more rapidly than formerly. For instance, as between 1905 and 1906, in 1906 it was 3,000 cars, while the mileage was increased about 200 miles, and I think this year the increase will be probably larger than that, because right now they are turning out between 20 and 30 cars a day in our shops, and two engines a month besides other rolling stock, on contracts by purchase that I am not familiar with.

I have some other suggestions, gentlemen, but as there are a good many gentlemen here I do not want to take up more of your time. But with the permission of the committee I would like just to hand the material in.

The CHAIRMAN. Yes, sir. It is not a repetition of your oral speech, is it?

Mr. HARRISON. No; not at all, except in a very few instances. It is along the same general line.

The CHAIRMAN. Very well.

The following papers were filed by Mr. T. B. Harrison, jr.:

Table showing mileage built in 1906, classified by States.

State.	Number of com- panies building.	1906.	Number of com- panies building.	1905.
Alabama.....	8	81.9	4	103.08
Alaska.....	1	15.5	2	13.0
Arizona.....	3	47.81	1	45.47
Arkansas.....	19	260.24	11	198.51
California.....	11	139.47	6	34.27
Colorado.....	8	113.36	4	83.15
District of Columbia.....	1	1.0		
Florida.....	12	205.75	4	10.8
Georgia.....	7	182.9	6	120.0
Idaho.....	6	184.4	5	109.7
Illinois.....	9	119.41	8	249.40
Indiana.....	6	101.03	3	171.79
Indian Territory.....	2	99.4	4	98.4
Iowa.....			3	15.2
Kansas.....	3	53.12	2	21.6
Kentucky.....	7	54.57	5	76.45
Louisiana.....	12	333.84	10	90.3
Maine.....	4	44.71	2	65.26
Maryland.....			1	40.7
Massachusetts.....	1	4.5	1	1.0
Michigan.....	3	24.8	9	87.76
Minnesota.....	6	138.07	5	106.20
Mississippi.....	8	165.14	5	120.5
Missouri.....	4	29.5	3	48.90
Montana.....	1	26.0		
Nebraska.....	3	174.55	1	47.0
Nevada.....	4	282.05	3	86.90
New Jersey.....	1	2.67	3	9.9
New Mexico.....	2	151.0	3	122.5
New York.....	3	95.02	4	49.68
North Carolina.....	4	34.0	8	124.5
North Dakota.....	2	247.47	4	520.75
Ohio.....	4	61.0	3	84.66
Oklahoma Territory.....	2	36.0	3	154.4
Oregon.....	7	61.11	5	68.42
Pennsylvania.....	14	117.72	8	76.7
Rhode Island.....			1	3.5
South Carolina.....	3	41.0	2	26.0
South Dakota.....	6	388.23	4	116.0
Tennessee.....	6	65.0	5	151.2
Texas.....	18	634.67	9	238.5
Utah.....	6	153.52	5	66.02
Vermont.....			1	5.0
Virginia.....	5	121.27	2	12.96
Washington.....	5	103.06	3	49.5
West Virginia.....	5	78.78	8	165.23
Wisconsin.....	5	141.84	7	142.65
Wyoming.....	3	206.95	2	40.65
Total, United States.....	250	5,623.33	198	4,393.03
Canada.....	15	1,007.05	11	1,189.66
Mexico.....	8	294.5	5	232.42

The following table shows the population per square mile in 1903 in the various New England, Middle, South Atlantic, and Gulf and Mississippi Valley States.

	Popu- lation per square mile.		Popu- lation per square mile.
Rhode Island.....	431	Virginia.....	48
Massachusetts.....	370	South Carolina.....	46
New Jersey.....	268	West Virginia.....	41
Delaware.....	196	North Carolina.....	40
New York.....	160	Georgia.....	39
Pennsylvania.....	147	Alabama.....	37
Maryland.....	125	Mississippi.....	35
Connecticut.....	97	Louisiana.....	33
Kentucky.....	55	Florida.....	10
Tennessee.....	50		

Another well-defined railroad principle is that the cost of handling passenger traffic increases as the density of such traffic decreases. Statistics of Railways in the United States for the year 1904, as published by the Interstate Commerce Commission, show that the number of passengers carried per passenger locomotive and the number of passenger cars used for each 1,000,000 passengers carried in the New England, Middle, South Atlantic and Gulf, and Mississippi Valley States during the year were as follows:

	Passengers carried per passenger locomotive.	Passenger cars per 1,000,000 passengers carried.
New England States.....	97,294	39
Middle States.....	87,275	43
South Atlantic States.....	44,095	90
Gulf and Mississippi Valley States.....	45,876	79

Thus it will be noted that while the number of passengers carried per passenger locomotive in the New England States was more than twice the number carried in the South Atlantic or Gulf and Mississippi Valley States, yet the number of passenger cars required for the transportation of each 1,000,000 passengers in the New England States was less than half the number of cars required in either the South Atlantic or the Gulf and Mississippi Valley States. A logical result was that the proportion of passenger earnings to the total earnings in the New England States was 37.07 per cent, while it was only 19.64 per cent in the South Atlantic States, and only 21.28 per cent in the Gulf and Mississippi Valley States. Also the proportion of earnings from operations assignable to passenger service in the New England States was 43.47 per cent, while in the South Atlantic States and Gulf and Mississippi Valley States it was only 24.79 and 26.02 per cent, respectively.

The following figures show the approximate losses to the southern roads if the 2 cent passenger rate were put in effect, based on result of operations during the year 1904, as published by the Interstate Commerce Commission:

	South Atlantic States.	Gulf and Mississippi Valley States.
Passengers carried 1 mile.....	697,273,338	1,418,824,060
Maximum earnings thereon at 2 cents per mile.....	\$13,945,466.76	\$28,376,481.20
Actual passenger earnings during year 1904.....	\$16,744,066.00	\$33,892,405.00
Less.....	13,945,466.76	28,376,481.20
Reduction in revenue.....	2,798,599.24	5,415,923.80

Making the aggregate annual approximate reduction in revenue of the roads operating in territory south of the Ohio and Potomac rivers and east of the Mississippi River \$8,214,523.04.

With respect to the effect of the proposed law on the Louisville and Nashville Railroad Company: It is not likely that consideration will be given any individual railroad, and therefore have not worked up any comparison between the Louisville and Nashville and other lines. However, the following extract from our annual report for the fiscal year ending June 30, 1906, is of interest in this connection.

Totals and averages for the year 1905-6 compared with the previous year.

Passenger traffic.	1905-6.	1904-5.	Percentage of—	
			Increase.	Decrease.
Mileage of road operated.....	4,130.91	3,826.31	7.9607	
Miles run by revenue trains.....	7,847,170	6,973,475	12.5258	
Miles run by cars.....	41,245,410	38,788,804	6.3333	
Cars in each train.....	4.67	4.91		4.8880
Passengers carried.....	10,666,500	9,518,705	12.0583	
Miles each passenger was carried.....	34	38.90		12.5984
Passengers carried 1 mile.....	362,745,093	370,084,220		1.9831
Passengers carried in each train.....	41.09	46.84		12.2758
Passengers carried in each car.....	12.28	13.12		6.4024
Earnings from passenger trains.....	\$10,868,150.53	\$10,386,044.71	4.6419	
Expenses of passenger trains.....	\$7,673,433.37	\$6,287,268.31	22.0472	
Net earnings from passenger trains.....	\$3,194,717.16	\$4,098,776.40		22.0568
Earnings per mile of road.....	\$2,630.93	\$2,714.38		3.0744
Expenses per mile of road.....	\$1,857.56	\$1,643.17	13.0473	
Net earnings per mile of road.....	\$773.37	\$1,071.21		27.8041
Earnings per revenue train mile.....	\$123.115	\$131.450		6.3408
Expenses per revenue train mile.....	\$86.925	\$79.574	9.2379	
Net earnings per revenue train mile.....	\$36.190	\$51.876		30.2375
Earnings per car mile.....	\$26.350	\$26.776		1.5910
Expenses per car mile.....	\$18.604	\$16.209	14.7757	
Net earnings per car mile.....	\$7.746	\$10.567		26.6963
Earnings per passenger.....	\$62.79	\$88.98		6.9566
Earnings per passenger per mile.....	\$2.434	\$2.289	6.2346	
Percentage of expenses to passenger earnings.....	70.60	60.54	16.6171	

This shows that while the earnings from passenger trains increased during the year 1905 and 1906, 4.6419 per cent over the corresponding period of 1904 and 1905, the expenses of passenger trains increased 22.0472 per cent and the percentage of expenses to passenger earnings increased 16.6171 per cent, thus forcibly illustrating the well-known fact that the cost of operation has increased in the past year out of all proportion to the increase in revenue derived from passenger traffic.

In connection with the demand for a reduction in passenger charges it may be pointed out that the average rate per passenger per mile is steadily declining. The last year for which the Interstate Commerce Commission has compiled figures is 1905. These show that in the ten years from 1895 to 1905 the rate has declined from 2.040 to 1.962 cents per mile, or 3.98 per cent. This rate of decline would have been greater but for the effect upon the average of the loss of a considerable amount of low-rate suburban and interurban travel, due to the development of the trolley system. The extent of this is shown by the fact that the average distance traveled per passenger increased from 24.02 miles in 1895 to 32.21 miles in 1905. This is an important point, for the reason that, while suburban traffic is carried at low rates, it is more profitable than much of the longer distance travel, because it is more dense and trains can be loaded more nearly to their capacity.

That the decline in the average passenger rates in the United States has not been so rapid and constant as the decline in the average freight rate has been due almost entirely to the fact that, owing to the constant public demand for more frequent, improved, and faster passenger trains, it has been impossible for the roads to introduce economies in their passenger service. An increased volume of freight traffic has made it possible for the roads to reduce the unit charge without impairing their revenues. Increased passenger travel, on the other hand, has called for increased expenditures in nearly the same proportion. This is strikingly illustrated by comparing the statistics of train service in the two branches. By using cars of larger capacity and engines of greater tractive power it has been possible to increase the average freight-train load from 189.69 tons in 1895 to 322.26 tons in 1905, an increase of 69.88 per cent. On the other hand, the average number of passengers per train in 1895 was 38 and in 1905 it had increased to but 48, or only 26.31 per cent. In the meantime, however, the total number of passenger carried had increased from 507,421,362 in 1895 to 738,834,667 in 1905—an increase of 231,413,305, or 45.60 per cent. In other words, the roads, in response to the public demand for more frequent service, have been compelled to increase the number of their trains vastly out of proportion to the traffic requirements of the service, and, at the same time, in response to the desire of the public for greater comfort and luxury, the cost of passenger equipment has been increased.

While the average number of passengers per train is but 48 the railways can not reduce their average train capacity to anything like that figure. A train must always have accommodations for the largest number of passengers that it may reasonably be expected to be called upon to carry, though, unless it be a suburban train or a through train in a region of dense and regular traffic, it may not be filled to even one-half its capacity once in six months. Every road has the experience from time to time of running passenger trains for a greater or less distance practically empty or entirely so. For instance, on Christmas Day, 1905, the Pennsylvania Limited, one of the most expensive passenger trains in the world, ran from Jersey City to Pittsburgh without a single passenger and, though not a cent of passenger revenue was received, the cost to the Pennsylvania was practically the same as if it had been loaded to its full capacity.

Practically every railway in the country has some passenger trains that regularly fail to earn enough to pay the bare cost of their own movement and that contribute nothing either to maintenance, expenses, fixed charges, or profits. Yet these trains must be run to meet the needs of the people dependent on the road for transportation. There are roads on which the passenger service as a whole does not do more than earn its proportion of the operating expenses and contributes nothing to fixed charges or profits. There are other roads, enjoying dense passenger traffic, on which the passenger business contributes to both fixed charges and profits, but it may be very seriously questioned whether the roads of the United States, considered as a whole, earn any profits whatever from their passenger business.

A mathematically accurate answer to this question can not be made for the reason that a very large proportion of the total expenses of a railway are joint expenses that can not be apportioned accurately between the freight and passenger services. The average cost per mile of running all the trains on a road can be determined with absolute exactness. It is also possible to determine with approximate accuracy the out-of-pocket expense of actually moving either the freight trains or the passenger trains and of maintaining freight equipment and passenger equipment. But when it comes to apportioning between the two services, station and yard expenses, maintenance of way expenses, general expenses, and fixed charges, the problem is very complex and on those roads where its solution is attempted much depends on the traffic and operating conditions peculiar to a particular road and to the views of the accounting department as to the proper apportionments to be made. The division usually made approximates more or less closely to an apportionment of all joint expenses in proportion to freight-train mileage and passenger-train mileage. A calculation made on this basis makes the expenditures per passenger-train mile somewhat less than those per freight-train mile, due to the fact that, owing to the greater speed of passenger trains, the cost of movement per mile is less. There are strong reasons for contending, however, that the passenger service should be charged with a somewhat greater proportion of some joint expenses than that based on train mileage. For instance, on most roads this service should bear a greater proportion of the cost of construction and interest on this cost, for often great expense is incurred to eliminate curves and shorten the line for the benefit of the fast-passenger service when, if freight alone were considered, the expense would not be incurred. The expense of elevating tracks above street grades in cities or of depressing them below grade in an open cut, or in a tunnel, is almost always made necessary for passenger trains almost exclusively.

As freight yards must be on grade for the convenience of shippers as well as of the roads, and they are usually so located that expensive elevated or depressed tracks leading to them are not necessary. Expensive passenger stations in large cities are also an important factor in increasing construction costs. Fast passenger trains also require large expenditures on roadbed and bridges. The comfort as well as the safety of passengers requires that the track shall be carefully leveled and that it shall be aligned as accurately as possible. It must be heavily ballasted, with stone if possible, though cheaper and less cleanly material in less quantity might serve for freight. A bridge that would be sufficiently strong for a slow-moving, heavily-loaded freight train would be unsafe for a fast passenger train. Then, when once the road has been built, a proportion of maintenance of way expenditures out of proportion to passenger-train mileage is required to keep it up to the passenger-train standard. In this connection it may be pointed out that many roads are now incurring large expenses in the extension and improvement of their systems of block signals, primarily for the benefit of the passenger service, though the movement of freight will be facilitated also, and recent accidents have demonstrated that nothing should be done that will tend to retard this work on the many roads that would be hampered by any reduction in their present earnings.

Returning to the actual cost of moving trains, attention should be directed to a fact that is generally overlooked in popular discussions of passenger rates, and the full importance of which is not always appreciated even by railway operating and accounting

officials. This is that a part of the expenditures for the actual movement of freight trains are made necessary by the passenger traffic, and can properly be considered a part of the cost of that service. This is the cost of holding freight trains on sidings to await the passage of passenger trains. This is an important item on every road, but especially on a single-track line with heavy freight and passenger traffic moving in both directions. It varies, of course, on different roads and even on the same road at different seasons of the year.

To determine with approximate accuracy for a single road the relative mileage cost of freight and passenger trains would be a very difficult matter. To do it for the entire country is practically impossible, but, taking all factors into account, it is safe to say that the cost per mile of passenger trains is not materially less than the cost per mile of freight trains. It is probably fully as great. Unless, however, the cost is very materially less the passenger business of the country, considering all the roads as a single system, does not contribute a dollar to railway profits.

Not only have the railroads been compelled to increase the number of their passenger trains almost in proportion to the increase in the number of passengers carried, but the running of each train has become more expensive from year to year. Passengers would not tolerate the character of equipment in general use twenty years ago, and, without taking into consideration the advances in the cost of practically every kind of material entering into the construction of a passenger coach, the cost per coach has been greatly increased by the development of more convenient, comfortable, and luxurious coaches. The demand for speed has also called for the construction of larger and more powerful engines for the passenger service, and passenger engines to-day cost from \$4,000 to \$5,000 each more than a few years ago. One of the principal items of increased expense in railway operation has been the large advance in the rate of wages paid to every class of railway employees. In the freight service this has been neutralized to a certain extent by the increase in the average train load, but this could not be done in the passenger service. Bearing in mind the very slight increase in the passenger-train load and the very large increase in wages, including the advances made within the past few months on practically all the roads of the country, it is apparent that the number of units of passenger-train revenue required to pay the daily wages of a train crew has very largely increased.

In considering a proposition to fix a maximum passenger rate it must be remembered that, whatever rate may be fixed as the maximum, the average rate that can actually be charged will be materially less. There are several reasons for this. One of these is that wherever there are two or more roads between two points the maximum fare that can be charged on any one of them is the rate fixed by the shortest line. This line could not charge more than the legal maximum per mile, which would make the rates by the longer lines less than the legal maximum. Another reason is that the law contemplates, and long custom requires, the giving of reduced-rate tickets to certain classes of passengers, such as clergymen and charity passengers. It is also the general practice to put into effect reduced rates to expositions and fairs and to religious, fraternal, educational, business, and political gatherings. Especially low rates are also made for commutation tickets on suburban lines where the traffic is so dense that it can be carried at a rate per mile that would be ruinous if applied to the entire passenger business of a road. In addition to these low rates it is the uniform practice of the railroads to run cheap popular excursions at intervals, especially in the summer months, to afford people of moderate means an opportunity to visit seashore and mountain resorts and other points of interest. It will thus be seen that, under any circumstances, the average rate per mile must be somewhat less than the legal maximum, and that, if the roads are to continue their present liberal policy of giving reduced rates within the limits recognized by the Hepburn law as being proper, the average rate must be very considerably below the legal maximum. Taking everything into consideration, it may be doubted whether a cent and a half could be maintained as the average for the entire country if the legal maximum should be fixed at 2 cents a mile. As much of the passenger traffic is unprofitable at present rates, it is apparent that enforced reductions can not be carried far without bringing about the impairment of the service.

The CHAIRMAN. Mr. Boyd, are you ready to proceed now?

Mr. BOYD. Yes, sir.

The CHAIRMAN. Very well.

STATEMENT OF MR. GEORGE W. BOYD, GENERAL PASSENGER AGENT, PENNSYLVANIA RAILROAD.

Mr. BOYD. Mr. Chairman, the disastrous results that would follow the issue of an unlimited mileage ticket, such as is provided for in the Sherman bill, have been so well pointed out by the gentlemen who preceded me that I deem it unnecessary further to refer to them. It occurs to me, after careful thought, that there is no demand to-day from the people for such a ticket, and that it would be very unwise on the part of Congress by legal enactment to force such a ticket upon the railroads of the country.

I speak, now, more directly for the Pennsylvania Railroad, but in a general way also for the trunk lines of the Eastern territory. I can say to this committee in good faith that no form of ticket or rate or train arrangement is adopted by the Pennsylvania, and what I think is true in our case is also equally true in the case of all well-regulated companies—without first ascertaining whether such a rate or such a ticket or such a train will prove an additional accommodation to the traveling public.

I am frank to say that I believe that in serving the people we are serving the best interests we represent, namely, the railroads, and it is unfair to suppose that any well-regulated railroad in this country would be short sighted enough to introduce regulations that would be distasteful to the people and result in bad feeling and complaint against the management.

The duties and limitations of railroads are being defined by rulings of the Interstate Commerce Commission at this time. The tariffs of all railroads have been submitted to the Commission, and it is for the Commission to say whether such rates as we have filed are reasonable and accommodating and satisfactory and just to the people.

My thought is that it is not only not necessary but absolutely unwise and prejudicial to good government for Congress, as I said, to force upon the railroads at this time any further legislation tending to the reduction of rates or to the modification of our tariffs.

Mr. BARTLETT. You mean railroad tariffs, of course? (Laughter.)

Mr. BOYD. Yes. It seems a flat passenger rate could not be adopted without very harmful results to many of the railroads, especially those in the South and in the West. I hope this committee will not imbibe the impression that, because the trains of the Pennsylvania Railroad are well filled day after day, our margin of profit is greater than that which is derived by other well-regulated railroads in other sections of the country. There is a constant demand on the part of the people for faster trains and more expensive accommodations, with a constant demand for reduction in rates, so that you will see that it is operating against the railroads of this country in both directions.

The CHAIRMAN. Mr. Boyd, would it interrupt you if I should ask you a question there?

Mr. BOYD. Not at all, sir.

The CHAIRMAN. Can you give this committee an idea of the added cost to your company of your train that makes the passage between New York and Chicago in 18 hours as compared with one that makes that journey in 26 hours?

Mr. BOYD. Well, Mr. Chairman, I beg to admit that I can not give you the exact figures.

The CHAIRMAN. Can you approximate it?

Mr. BOYD. I can. The average cost of running a modern railroad train between important centers on an accelerated schedule can not be placed lower than \$16 per mile. The 18-hour trains were introduced by the Pennsylvania Railroad in the one case, and by the New York Central in the other, for the accommodation of the business interests of the Eastern and Western country. Bankers and merchants, and gentlemen representing other important interests, petitioned us from time to time for fast trains, permitting them to transact business during the day in New York, with a night journey to Chicago, and after a full business day in that city a return journey by night, enabling them to have a third business day in New York, so that the journey is made overnight.

The character of accommodations that are furnished is the highest and most expensive that could be produced. The average number of passengers carried on our train since it was inaugurated is, I think, about 40 per trip. There is added an additional cost on account of the speed, because in accomplishing that high rate of speed we must insure safety to the people, which is the first consideration on the part of any railroad in the country, and in doing that we sidetrack or shift from track to track many of our important passenger trains, as well as innumerable freight trains, which is a difficult, and in many ways an expensive thing to do; so that while this train is yielding a revenue, say, of \$1.15 or \$1.20 a mile, not exceeding that amount, and other trains on our line are yielding \$2 and \$2.50 per mile, yet we feel that the management of the road owes that accommodation to the best interests of the country, and we are providing it, not with any desire to secure an undue profit from the arrangement, but, as I say, to accommodate the different classes of travel that present themselves, at the lowest possible rate consistent with a reasonable margin of profit for our shareholders.

Now, I am myself, as a passenger man, thoroughly opposed to the idea of a flat rate anywhere in this country. I contend that the man who travels once a year, makes one trip per year, from Philadelphia to Pittsburg, or from Washington to New York, is not entitled to the same rates per mile as the man who travels three or four or five times a week; while the man who travels daily between two established points is entitled to a still lower rate than the man who travels three or four or five days a week.

The CHAIRMAN. Why?

Mr. BOYD. On the principle, I should say in the first place, of wholesale business; and then because the necessities of one man are greater than those of the others, and it would not be fair or equitable to charge the man who rode daily between Washington and Baltimore, for example, the same rate per mile as the man who rides twice a year from Washington to New York.

Mr. RICHARDSON. The same principle applies to freight. The man who ships a large quantity might claim that he should have a lower rate?

Mr. BOYD. That does not pertain to my department; and a man connected with a great railroad like the Pennsylvania, if he is fortunate enough to keep himself fully informed as to the responsibilities and duties of his own single department is doing well.

Mr. ADAMSON. Every community in this country, either urban or

rural, imposes a road tax upon everybody above the average age of 16 by law. Would you say that the man who used the highway oftener than another should pay more toward the maintenance of the highway or less?

Mr. BOYD. That is beyond my jurisdiction.

Mr. ADAMSON. That is an analagous case.

Mr. BOYD. Hardly, in my opinion.

Mr. MANN. A good deal has been said here, Mr. Boyd, about the extra expense of operating passenger trains and the maintenance of right of way of railways in the West as compared with those in the East. Your company is engaged in building a tunnel to connect New Jersey with New York, I believe?

Mr. BOYD. Yes, sir.

Mr. MANN. Will you ever be able to derive any income beyond the cost of maintenance from the passenger traffic on the charge that is made merely for the distance under the river, or will have to spread the cost over the entire road for maintaining it?

Mr. BOYD. I do not anticipate any advance of our rates beyond the mere mileage that will be added from our present New York or Jersey City terminals. We hope that the great increase of travel, not only from Washington and Baltimore and all points on our system but also from the West and South as well, to New York, and coming to New York also from the New England territory, will be so pronounced that it will yield an increased revenue sufficient to meet the interest on those investments.

Those tunnels are created for the better accommodation of the people, and when our line between Washington and New York, including the tunnel, is completed, we will give you gentlemen a train in four hours as against five hours, landing you up practically against the Waldorf-Astoria and the other hotels in New York, resulting, in my opinion, in a saving of from an hour to an hour and thirty minutes without any additional expense.

The CHAIRMAN. I wanted to ask you, Mr. Boyd, following out the idea suggested by the question of Mr. Mann, what will be the probable cost of that tunnel and of the new terminal in the city of New York now under process of construction?

Mr. BOYD. I am not competent to answer that question, Mr. Chairman; it belongs to the operating department.

The CHAIRMAN. It will cost \$100,000,000, will it not?

Mr. BOYD. I presume it would probably reach or exceed that amount.

The CHAIRMAN. You have spoken of the increased facilities that you propose to give to gentlemen traveling from Washington to New York. Do you expect that the increased travel of persons who will use these extraordinary facilities will pay the added expense of this \$100,000,000 and ultimately provide a sinking fund for the redemption of your bonds, or to you expect to extend that cost, or your reimbursement of that cost, over all the people that live within the territory of your whole system?

Mr. BOYD. I think I answered that when I said that, so far as my understanding went, there was to be no increase of cost to the people. We will depend upon the increased travel that comes from the great increase in population along the Atlantic seaboard as well as in the Western States, and my view is that there will be no additional charge for transportation between Washington, for instance, and New York.

Now, Mr Chairman, I am simply giving you this as my opinion. I have no warrant for saying so beyond my general understanding.

The CHAIRMAN. Before you leave this point let me ask you: You are a passenger man, familiar with the passenger business of that road?

Mr. BOYD. Yes, sir.

The CHAIRMAN. Taking into consideration the average contribution to your treasury of each passenger that goes into the city of New York that will use this line or the lines that will be affected by these improvements, how many millions of passengers, additional passengers, must you have in order to recoup this additional cost?

Mr. BOYD. I could not answer that question offhand. I have not given it any consideration or made any calculations on it.

The CHAIRMAN. Have they not entered into the estimates of the probable result of these improvements?

Mr. BOYD. Undoubtedly, Mr. Chairman; but these are questions handled by the executive department, and they are not brought down to the passenger department until the road is ready for operation.

The CHAIRMAN. But it is a truth, is it not, that those extraordinary facilities that you are furnishing now to that class of your passengers that visit the city of New York postpone the time indefinitely when you can lower your rates?

Mr. BOYD. Not necessarily.

The CHAIRMAN. These facilities that you contemplate, as compared with the facilities of to-day, I mean.

Mr. BOYD. Not any more than the expense of this great terminal in Washington will have the same effect, though in lesser degree.

The CHAIRMAN. It will have the same effect?

Mr. BOYD. I should say not.

The CHAIRMAN. Then your illustration does not illustrate.

Mr. BOYD. It illustrates to this extent, Mr. Chairman, if you will allow me, that these terminals are necessary to a certain extent for the accommodation of our travel as it exists to-day and as it existed four or five years ago. Our facilities have not been sufficient satisfactorily and properly to accommodate the people, and that must be evident to all of you gentlemen who have occasion to pass through our terminal in this city. Just on the principle that we spent \$200,000,000 in revamping our line for the better accommodation of our traffic, so these terminals are not only necessary for the travel that we will handle four or five years, or ten years, hence, but they are absolutely necessary for the proper handling of it to-day, and Mr. Cassatt—

The CHAIRMAN. Right there, is it not true that by the methods you are adopting for the accommodation, say, of a certain few of your passengers, you are compelling the man who will never use these facilities at all to aid in the payment for it?

Mr. BOYD. I do not say that. I do not understand—

The CHAIRMAN. That is to say, as to the man living on some of your branches that never uses these facilities at all, and never expects to—you are keeping up a rate on him which, but for these extraordinary expenses, you might reduce.

Mr. BOYD. I can not see it in that way.

The CHAIRMAN. It will cost your company, to say nothing of any other branch of the matter, four or five million dollars a year to pay

the interest on the bonds that will make possible these improvements, will it not?

Mr. BOYD. I presume it will.

The CHAIRMAN. Now, if you retain your facilities as they are now, it would be practicable for you to reduce your passenger rates \$5,000,000, say, would it not, and in that way confer a benefit on all those who are patrons of your road?

Mr. BOYD. I should not like to subscribe to such an idea or such a condition. It might be true on the principle that a woman who likes to use calico instead of silk is quite as well accommodated with calico as she would be with silk—

The CHAIRMAN. I doubt if that is a fair illustration. Probably a fair illustration would be that the woman who would wear a silk dress that cost her \$1.50 would scarcely be justified in buying one that would cost her \$5 a yard.

Mr. BOYD. Dealing with the people, as I am constantly, I am firmly of the opinion that larger and better accommodations are more in demand than a reduction in our traff of rates. No fair-minded man in this country, in my opinion, will hesitate to pay what he desires if the railroad gives him what he pays for, and we have so regulated our rates that the various classes of travel presenting themselves are properly and equitably, and in my opinion, entirely, accommodated by them. Our arrangement of rates is entirely satisfactory to the people accommodated by the Pennsylvania Railroad who are good enough to give us their patronage.

The demand for accommodations and terminals in these great cities are just as necessary as one-hundred-pound steel rails and stone-ballasted lines are between important centers, and the railroad company that fails to provide them fails to provide for the accommodation of the people and for its own good, present and future. They are absolutely necessary, in my opinion.

Mr. MANN. What is your schedule of rates based upon now?

Mr. BOYD. Since November 1, of the past year, our local rate universally is 2½ cents a mile over the system east of Pittsburg, under my control as general passenger agent, 5,200 miles of main line.

The CHAIRMAN. That is a flat rate, then?

Mr. BOYD. That is a flat rate of 2½ cents a mile. In addition to that, we sell excursion tickets between all coast points at a rate of 2 cents a mile, as a rule, and in some cases as low as 1½ cents a mile; 1½ cents, and as low as 1 cent a mile, between Philadelphia and the summer resorts on the coast.

Mr. MANN. Are they regular excursion tickets or periodical?

Mr. BOYD. They are regular, sold during the year, bearing a return coupon good within fifteen days.

In addition, we sell what is known as winter excursion tickets to all these resorts based upon a slight fraction of advance from that, possibly less than 2 cents a mile. But in addition to these two forms of tickets we sell a mileage ticket good for one year from the date of issue, and good for the use of anyone presenting it, and good for any number of people within the 1,000 miles, and good over our entire system, at 2 cents a mile.

Mr. MANN. East of Pittsburg?

Mr. BOYD. Yes, sir.

Mr. STEVENS. That was recently established, was it not?

Mr. BOYD. Yes. We had a somewhat different form of ticket in effect prior to September 1 of last year. This form of ticket is a most accommodating form of ticket when issued locally over one system, and I am entirely frank and honest in saying that I do not believe there is any perceptible demand for a ticket good beyond certain limitations.

Now, under our rules a man who holds a mileage ticket good in the territory east of Pittsburg and who holds a second ticket over the lines west of Pittsburg, up to and including Chicago and St. Louis and Cincinnati, has the privilege of buying through sleeping-car accommodations and checking his baggage through; and in order to determine what number of people per day and per week and per month are taking advantage of that arrangement, showing the use of these tickets between the two territories, we have been keeping a record since September 1, and I think probably not exceeding 10 passengers a month avail themselves of the through arrangement between the two associations, each having the benefit of a 2-cent rate.

Mr. MANN. Do you have the 2-cent rate west of Pittsburg?

Mr. BOYD. Yes; the Central Traffic Association has a similar rate.

Mr. BURKE. What is the average rate of fare received in that portion of the road that is under your jurisdiction, Mr. Boyd?

Mr. BOYD. Well, for 1905 it was a cent and nine mills; less than 2 cents a mile.

Mr. KENNEDY. What harm would accrue to the Pennsylvania Railroad Company if a 2-cent rate were made and the power on the part of the company to discriminate between passengers was taken from them and they would have to treat all alike and take a 2-cent rate?

Mr. BOYD. We would be the gainer by it. Two cents a mile flat rate would not be objectionable to the Pennsylvania management if we could apply that to all our business, because it would yield us more than the present arrangement of our rates.

Mr. MANN. But when you figure out a cent and nine mills per mile you take into account competition?

Mr. BOYD. Yes, and everything.

Mr. MANN. Of course you would not get from your ordinary local business 2 cents a mile.

Mr. BOYD. The man who pays 2½ cents a mile for a ticket, say, from Philadelphia to Harrisburg, making the journey perhaps once a year, makes no objection about it, and probably feels that he has had a good return for what is charged.

Mr. MANN. Everybody who rides on the Pennsylvania road feels that way.

Mr. BOYD. Thank you, sir.

The CHAIRMAN. Do you feel that the absence of a protest when a man buys a ticket at one of your offices constitutes an expression of approval of the price of the ticket? In other words, do you consider that when a man makes no complaint, that is an approval or indorsement of the rate, or is he influenced sometimes by the fact that he knows you gentlemen are obdurate, and that his protest would be unavailing?

Mr. BOYD. I do not think we have any well-regulated citizen within the limits of our State who has such an impression about the management of the Pennsylvania Railroad, because our management, within the last—

The CHAIRMAN. I mean obdurate as to dealing with individuals.

Mr. BOYD. There have been no petitions, no signatures, from committees or citizens in regard to the passenger business that have not always received respectful and considerate attention at the hands of our officers; and instead of trying to find ways not to comply with such requests, we endeavor in every way that is possible to meet them, as I said before, consistent with an equitable percentage of profit to our shareholders.

Mr. STEVENS. Did you not read some years ago of petitions of citizens who dealt with your line, protesting about the amount of money they had tied up in mileage books with your road?

Mr. BOYD. Yes, I believe there was a petition of that kind. It was sent in by what is called the Commercial Travelers' Association, forming a very meager percentage of the passenger-carrying business of any railroad.

Mr. KENNEDY. Do you know of any other association or class of people that associate together to travel habitually?

Mr. BOYD. I do not, except the representatives of business firms. I would like to say that no difference what rate is made by railroads or by legal enactment, if they applied to people generally, they will not be satisfactory to the commercial travelers' associations of this country; and as confirming that, I wish to say to the committee that after the Ohio law became effective and the flat rate of 2 cents a mile was applied, the Travelers' Association of that State petitioned the railroads operating under what is known as the Central Traffic Association for a rate of 1½ cents a mile for their mileage tickets, claiming that as the people generally are charged only 2 cents a mile, they, the commercial travelers, ought to have a rate of one-half cent a mile less; and I assume that if the rate should go to a cent a mile they would still feel that they ought to have a corresponding reduction.

The CHAIRMAN. That is on your idea of wholesale business?

Mr. BOYD. Those men are treated by us and appear to us as individuals, and not as an organization. They do not as an organization contribute to the patronage of any one line of railroad, and they do not as an organization conform to the well-established rules that govern the issue of mileage tickets.

Mr. MANN. Don't you think the system abolished in September last was very objectionable, on reasonable grounds, to those people who traveled over your road?

Mr. BOYD. I think to some extent, but it was over a number of roads. The interchangeable mileage book was introduced by us and by other lines at the request of commercial bodies and travelers' associations.

Mr. ADAMSON. Have you now abandoned that \$10 arrangement that they objected to?

Mr. BOYD. We still sell an interchangeable ticket with a rebate of \$5, because our local rates are now two and one-half cents instead of three cents.

Mr. ADAMSON. They objected to tying up \$10?

Mr. BOYD. When that system was originally introduced it was looked upon as an accommodation to these people, and just what they wanted; and it accommodates them to-day, because they use it over seven different lines, and they are largely the people who travel from one railroad to another, and they have the benefit of a 2-cents-a-mile rate on the Erie Railroad, whereas if they bought a ticket over there it would be 2½ cents a mile. But that ticket was introduced

after great difficulty on the part of the Pennsylvania road in bringing the other lines into cooperation, for the benefit of that very class of people.

Now, last year, when it was very evident that the interstate commerce law should become a law and the issue of passes would be prohibited or largely curtailed, and when our management in its wisdom decided to make that arrangement effective January 1, 1905, the minute passes were withdrawn, not only the commercial travelers took advantage of the agitation that followed throughout the press, who themselves petitioned for a lower rate than existed at that time for members of their staff, but also other people, noting the conditions that we are concerned with in our efforts to be good, law-abiding citizens, urged that we should withdraw our restrictions on the interchangeable tickets, and that we should issue a mileage ticket good until used, and for anybody.

Now, I will say very frankly that it has always been the policy of the Pennsylvania Road, as I understood it, to lower its rates from time to time, in accordance with the great or proper increase of traffic, in order that we might earn for our shareholders the same proportionate percentage of profit, and we have reduced our rates from time to time until when the interstate commerce law became effective it was only necessary for us to file our tariffs, because our system of rates was in entire harmony with the letter and spirit of that law. But this great agitation against railroads which has been sweeping the country for the last two years will spend itself in time, and in my opinion it is very unjust and has brought very unjust results to many of the railroads less fortunate than the Pennsylvania.

But I think that that interchangeable ticket was most accommodating and proper. However, the use of that ticket became so general under the new conditions that many people did object to having to sign their names on the train as an identification, and as a means of having the extra fare refunded, as an evidence of their good faith.

The CHAIRMAN. Mr. Boyd, the time for adjournment has arrived.

Mr. BOYD. Just a moment; I will not appear again. But out of deference to the wishes of the people we waived the point and introduced our present ticket. I think it is most accommodating, and will prove not only entirely satisfactory to the patrons of the Pennsylvania but to the patrons of other lines that have introduced it and will introduce it, but will bring proper returns in revenue to the Pennsylvania Railroad.

Thereupon, at 12 o'clock noon, the committee adjourned.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Monday, January 14, 1907.

The committee met this day at 10.45 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. Are there any gentlemen desiring to be heard this morning?

Mr. HERBERT. Mr. Chairman, Mr. Fairlamb, of the New York Central Railroad, was to be here this morning, and we are still looking for him. Senator Faulkner was to have been here to-day, also, but he had to go to court to try a case, and for that reason he is not here. The agent of the Southern, his assistant, Mr. Wall, has come until Mr.

Faulkner shall have appeared. I do not know why Mr. Fairlamb is not here. We are still looking for him.

While I am up, I want to say that the witness for the Seaboard Air Line, Mr. Ryan—the Seaboard Air Line is my client—did not come to-day, because it was supposed he would not be reached. I would like to make an appointment for him and telegraph him to-day to be here to-morrow. He is a very busy man and can not take up any more time than is necessary. We do not seem to be ready with anybody just now until Mr. Fairlamb does come.

Mr. BURKE. Judge Payson has not finished yet.

Mr. HARDWICK. Senator Faulkner's secretary has heard that the Senator is in the building and he has gone to find out if he has heard anything more of Mr. Fairlamb. It was arranged that Mr. Fairlamb would appear this morning, and then it was understood that the representatives who are in Washington would come on after the representatives who have come from a distance. Therefore I did not myself come prepared to speak. I could be prepared at any time after this, but Mr. Fairlamb, of the New York Central, is such a very important witness that we are desirous of having his testimony or argument, as it may be, precede that which may be offered by the others. If the committee will just wait a little minute, I think Senator Faulkner will be here. Perhaps he may have heard from Mr. Fairlamb.

The CHAIRMAN. Well, the committee, as you have observed, has been quite assiduous and solicitous to have this hearing go on. We have been having sometimes two or three hearings a day, and almost every day, and we have a good many things before us. You gentlemen will either have to go on or we will have to conclude the hearing. We have given you a good deal of time, and it seems to me you might have reciprocated our anxiety to proceed by having your people here.

Mr. HARDWICK. We do appreciate that, Mr. Chairman, and we are very greatly obliged. As I say, I spoke personally to Mr. Fairlamb the last thing on leaving here the other day and he promised to be here this morning. I myself am simply a witness. I have not heard from Mr. Fairlamb, but I presume Senator Faulkner has heard.

The CHAIRMAN. Is there any gentleman who wants to proceed this morning?

Mr. PAYSON. Under the intimation which the Chairman has just made I will say that, out of courtesy, if any gentleman desires to occupy the time I will wait. I have been good-natured about this business all the way through, I think; but feeling, Mr. Chairman, that what I have to say about the subject is not entirely without interest, I will go on.

The CHAIRMAN. Proceed.

STATEMENT OF MR. LEWIS E. PAYSON—Continued.

Mr. PAYSON. Mr. Chairman and gentlemen of the committee, you will remember, I hope, that when I was interrupted the last time I had arrived at that stage of the suggestions that I was making where I ventured to observe that the first great factor in the question of rate-making to be considered by the rate-making power was the question of density of population. The Supreme Court in a number of cases has said that density of population was one of the important factors in determining what a reasonable passenger rate should be. That is expressly averred in *Smith v. Ames*, in 169 U. S.

Bearing upon that same question, I read from Beale & Wyman's "Railroad Rate Regulation," which is a standard authority on the question involved here, section 459:

459. *Divisions in sparsely populated territory.*—It is clear that where a division of a railroad runs through a sparsely populated country, so that the amount of business done upon it is comparatively small, and the net earnings are therefore much below the average of the whole road, the charges may be greater than the charges on the other parts of the road. This was discussed in the case of *Ames v. Union Pacific Railway* by Mr. Justice Brewer: "It is, however, urged by the defendants that, in the general tariffs of these companies, there is an inequality; that the rates in Nebraska are higher than those in adjoining States, and that the reduction by House Roll 33 simply establishes an equality between Nebraska and the other States through which the roads run. The question is asked, Are not the people of Nebraska entitled to as cheap rates as the people of Iowa? Of course, relatively, they are. That is, the roads may not discriminate against the people of any one State, but they are not necessarily bound to give absolutely the same rates to the people of all the States; for the kind and amount of business and the cost thereof are factors which determine largely the question of rates, and those vary in the several States. The volume of business in one State may be greater per mile, while the cost of construction and of maintenance is less. Hence, to enforce the same rate in both States might result in one in great injustice, while in the other it would be only reasonable and fair.

"Comparisons, therefore, between the rates of two States are of little value, unless all the elements that enter into the problem are presented. It may be true, as testified by some of the witnesses, that the existing local rates in Nebraska are 40 per cent higher than similar rates in the State of Iowa. But it is also true that the mileage earnings in Iowa are greater than in Nebraska. In Iowa there are 230 people to each mile of railroad, while in Nebraska there are but 190; and, as a general rule, the more people there are the more business there is. Hence a mere difference between the rates in two States is of comparatively little significance."

This same line of argument was pithily put by Mr. Justice Cady in *Steenerson v. Great Northern Railway*, when he asked: "Why should the people of Minnesota and eastern Dakota be made to pay an income on this idle railroad property further west?" And in *Wellman v. Chicago and Grand Trunk Railway* Mr. Justice Morse said: "A classification according to the amount of business done per mile seems to me to be the fairest and most reasonable classification, if railroads are to be classed at all, in the fixing of the maximum rates."

In case after case it has been held that density of population corresponds closely with density of travel.

Now, density of population by square mile, by comparison, in the territory in which the Union Pacific and the Southern Pacific systems are operated and in the older sections of the Union, is important, I think, and it may be said to be this, taken from the census of 1902, that the average population per square mile in the Eastern and Middle States is: In New York 160, Massachusetts 370, Connecticut 97, Rhode Island 431, Pennsylvania 147, New Jersey 268, Ohio 105, and Illinois 91.

Going now to the section of country where my own roads are operated, the population per square mile in 1903 in Kansas was 18, Nebraska 14, Colorado 5, Utah 3, Nevada 4, California 10, Idaho 2 plus, Washington 9, Arizona 1 and a fraction, New Mexico 2 and a fraction, Texas 12, and Louisiana 32.

That is to say, Massachusetts is 33 times as dense as Texas, 7 times more dense than Iowa and Michigan, 4 times more dense than Illinois, and three times more dense than Ohio; and yet 3 cents per mile is allowed by law in Massachusetts, as it is in New York, Connecticut, New Jersey, and Pennsylvania.

I have a table here showing the density of population generally, which, without taking up the time to read, I will ask leave to insert. It is from a pamphlet that is recognized as an authority everywhere, and I will ask leave to insert it, digesting from it the figures I have given here:

RAILWAYS AND POPULATION IN THE SEVERAL STATES.

If, as has been shown, the population density of Europe with its potentialities for remunerative passenger traffic averages five and one-half times greater than in the United States as a whole, the contrast as to particular localities is emphasized in the following table, showing the several proportions for the individual States of the Union:

Density of population and railway mileage per capita in the United States.

	Area (land), square miles.	Popula- tion, 1903 (thou- sands).	Popula- tion per square mile.	Railway mileage, 1904.	Miles of railway.	
					Per 100 square miles.	Per 10,000 inhabit- ants.
Alabama.....	51,540	1,923	37	4,627	9.0	24.1
Arizona.....	112,920	133	1	1,363	1.2	102.4
Arkansas.....	53,045	1,366	26	4,051	7.6	28.6
California.....	155,980	1,564	10	6,255	4.0	40.0
Colorado.....	103,645	574	5	4,959	4.8	86.4
Connecticut.....	4,845	956	97	1,017	21.0	10.6
Delaware.....	1,960	189	96	301	15.4	16.0
District of Columbia.....	60	293	4,663	31	51.6	1.1
Florida.....	54,240	566	10	3,534	6.5	62.4
Georgia.....	58,980	2,336	39	6,197	10.5	26.5
Idaho.....	84,290	183	2	1,461	1.7	79.8
Illinois.....	66,000	5,117	91	11,609	20.7	22.7
Indiana.....	35,010	2,614	73	6,910	19.2	26.4
Indian Territory.....	31,000	455	14	2,532	8.2	55.6
Iowa.....	55,475	2,336	42	9,854	17.7	42.2
Kansas.....	81,700	1,460	18	8,811	10.8	59.9
Kentucky.....	40,000	2,230	55	3,242	8.1	14.5
Louisiana.....	45,420	1,460	32	3,806	8.4	26.1
Maine.....	29,865	702	23	1,964	6.6	28.0
Maryland.....	9,860	1,231	125	1,371	13.9	11.1
Massachusetts.....	8,040	2,974	370	2,118	26.5	7.1
Michigan.....	57,430	2,510	43	8,582	14.9	34.2
Minnesota.....	79,205	1,857	23	7,741	9.8	41.7
Mississippi.....	46,340	1,629	35	3,456	7.5	21.2
Missouri.....	68,735	3,227	47	7,707	11.2	23.9
Montana.....	145,310	277	2	3,260	2.2	117.9
Nebraska.....	70,840	1,098	14	5,820	7.6	53.0
Nevada.....	109,740	40	4	5,986	9	246.5
New Hampshire.....	9,005	422	47	1,275	14.2	30.2
New Jersey.....	7,525	2,016	268	2,259	30.0	11.2
New Mexico.....	122,460	205	2	2,504	2.0	122.1
New York.....	47,620	7,659	160	8,297	17.7	10.8
North Carolina.....	46,580	1,976	40	3,956	8.1	20.0
North Dakota.....	70,195	357	5	3,190	4.5	89.3
Ohio.....	40,760	4,302	105	9,128	22.4	21.2
Oklahoma.....	36,830	465	13	2,611	6.7	52.7
Oregon.....	34,560	437	5	1,736	1.8	39.7
Pennsylvania.....	44,985	6,606	147	10,933	24.3	16.5
Rhode Island.....	1,033	454	431	211	20.1	4.6
South Carolina.....	30,170	1,397	46	3,143	10.4	22.5
South Dakota.....	76,850	443	6	3,047	4.0	68.8
Tennessee.....	41,750	2,095	50	3,480	8.0	16.1
Texas.....	262,290	3,285	12	11,823	4.5	35.9
Utah.....	82,190	295	3	1,761	2.1	59.7
Vermont.....	9,135	347	38	1,063	11.6	30.6
Virginia.....	40,125	1,919	48	3,829	9.5	19.9
Washington.....	66,980	581	9	3,298	4.9	56.7
West Virginia.....	24,645	1,021	41	2,765	11.2	27.1
Wisconsin.....	54,450	2,155	40	7,043	12.9	32.7
Wyoming.....	97,575	101	1	1,247	1.3	123.4
Total.....	2,970,230	79,900	27	212,577	7.1	26.6

* Includes odd hundreds and decimals.

And in that connection, inasmuch as it is taken from authorities, this comparison of figures is important—a comparison of passenger mileage of each mile of road in 1904: New England had for each mile of road within its limits a passenger mileage of 242,363; the Middle States, 163,107; the Southern portion of the Union, 34,236; the Northwest portion of the Union, but not including the extreme West, 28,979; the extreme West and the Southwest, covered by the systems which I represent before you, had 15,800 passenger mileage travel.

Now the comparison between 15,000 and 242,000 gives the relative difference between the sections of country which I represent and that in the extreme East; and the point, Mr. Chairman, that I am emphasizing here is that a flat blanket rate, no matter what the amount is, that is just in the Eastern portion of the country, is absolutely unequal and absolutely unjust, if not ruinous, to the sections of the country in which the roads I represent are operated.

The CHAIRMAN. Let me ask you if the comparison you have made would be valuable unless you also gave the average length of the journey?

Mr. PAYSON. Only as a factor, Mr. Chairman; because, as I shall attempt to demonstrate, all these figures have to be taken into account necessarily, not only as to the amount of travel, but in connection with that, the cost of operation. The rule and experience is universal, that wherever there is a large increase of travel there is an increase in demand for additional facilities, additional trains, and additional expenses of all kinds; so that, strange as it may seem, notwithstanding the travel may have doubled or trebled in some sections of the Union in the last ten or fifteen years, the expenses of operation, because of demands to furnish increased facilities, have substantially kept pace with the increase of travel. But it is only essential or simply essential as showing that this, with other factors, must be considered.

Coming down to the point which I shall insist upon throughout these observations, that it is an act absolutely impracticable, and an act of absolute impossibility, and an act of injustice, to undertake to treat the railroads of this country as a whole in fixing a reasonable maximum rate of fare——

Mr. RICHARDSON. Your argument is all toward the propriety of fixing of a flat rate for all sections of the country without regard to the density of traffic or population or anything else?

Mr. PAYSON. Yes; especially as showing, Mr. Richardson, the necessity of taking these matters into consideration in determining what a reasonable rate may be.

Mr. RICHARDSON. I do not know what the tendency of the committee is on that subject of the flat rate, but I, as one of the committee, would like to hear you discuss, when you present such a strong view from your standpoint—I would like you to discuss some process or method by which a fair rate could be applied to different sections.

Mr. PAYSON. That will be my pleasure to do at a later stage. But to refer to it now would be only anticipating what I shall elaborate later on.

Mr. KENNEDY. A consideration of this argument of density should consider also the relative number of roads that supply the sections, and the fact that patronage of the people in certain sections is divided up among certain roads.

Mr. PAYSON. Yes, I give that. All those factors, Mr. Kennedy, should be considered, and I shall come to them presently.

Mr. TOWNSEND. Is it possible for you to determine what the average now is for the extreme West and Southwest?

Mr. PAYSON. I have no such figures. I am not an operating man. But I will say for the benefit of the committee that as to undertaking to deal with the proposition of averages and apportioning passenger traffic in its relation to the freight traffic in order to determine the net earnings as to each, our company quit in 1892 undertaking to do that,

precisely as the Interstate Commerce Commission quit doing it, for reasons that I shall give you a little later on. They found it was practically an impossibility to act with accuracy; that the figures were oftentimes misleading; that nothing was so unreliable as the determining of railroad averages from the rates received, because included in the problem were the matter of excursion rates and other things of that kind; and the Interstate Commerce Commission have not taken it up since, and our people have not done it, and therefore I am not prepared to give the committee any figures from printed matter as to that. And I will say that our passenger manager, Mr. Fee, than whom there is not a more able passenger manager in the Union, desired to come from San Francisco before this committee and give his views and figures, but I telegraphed to him that there was no necessity of his coming, because other western roads would be here, western roads as well as eastern roads, and the testimony of each man would be only cumulative on the propositions advanced here. I am not prepared to give figures as to the average rate per mile——

Mr. TOWNSEND. Are you prepared to assent to the proposition that a rate might be so high in any section of the country as to absolutely discourage earnings—that it would lessen rather than increase the earnings of the road?

Mr. PAYSON. Undoubtedly—undoubtedly. I think that is an important suggestion, because, undoubtedly, Mr. Chairman and gentlemen of the committee, the same rule applies to the question of passenger traffic that applies to a customs-tariff system. There is a point known to those dealing in economics as the “revenue point,” and if you get it at that point or about that point you get more money out of tariff revenues than by any other rate, but by lowering it you increase importations but get less revenue, and by raising it higher you do not get so much money because of decreased importation.

Undoubtedly the railroad companies are actuated by motives of self-interest in fixing their rates, so that they can get their utmost out of what they have by encouraging travel, by affording additional facilities and cheaper rates whenever it can be done. It is perfectly obvious in that regard, Mr. Chairman, when you stop to think of the immense amount of money that is being expended at this very hour in giving additional terminal facilities. For what reason is this immense depot being erected here in the city of Washington? Purely for passenger traffic. The amount of money expended on it will aggregate for the railroads something like six or seven million dollars, as I understand, and not a dollar of that money so expended can be attributed in any way, no matter how remotely, to the freight traffic on any of the roads occupying this station. Six million dollars in round figures, say, will be invested. Why? The people demand the best accommodations they can get, and the railroads feel it is to their interest to do it. While it is mortgaging the future, and no man can predict the time when, out of the additional earnings of the road, this building will ever be paid for, it will be mortgaged for this generation and the next, and they will be looked to to get out of the increased patronage to come the interest there, to say nothing of the principal; yet, nevertheless, it is provided.

It was said before the committee the day before yesterday that of the immense amount of money expended in terminals in New York not a dollar of that money can be attributed to the freight transporta-

tion of the Pennsylvania Railroad system. Yet \$100,000,000 is being poured in there—to do what? To accommodate the increased demands of the people for the best accommodations they can get.

Mr. BARTLETT. In making a comparison of the density of population you have only made a comparison of the country covered by your own lines as compared with the others?

Mr. PAYSON. Yes.

Mr. BARTLETT. The other information as to other lines is accessible?

Mr. PAYSON. It is. As a corollary to what I said, Mr. Chairman, it seems to me perfectly plain that if a flat 2 cents a-mile rate is justified on the most-favored road in the Union, it would be rank injustice to impose it upon the lines of road which I represent. In no feature or factor of road making is there any comparison of equality whatever between the systems I represent here and the systems in New York State and the East. As to the matter of original cost, I hinted at that the other day. It is a matter of common knowledge. Take the extreme West, say, for example, the line to Portland, over the Central Pacific; and the road from San Francisco to Los Angeles. The original cost of construction is simply appalling. It is a matter of common knowledge. Take the case of the Central Pacific through the Sierras. The grades are enormous. An engine has to be now at each side to assist in pulling the train up each side. Long and expensive tunnels have been constructed, and the maintenance of snow sheds is required. The cost more than exceeds the cost of construction of some railroads in the Lower Mississippi Valley. I do not go into details with this, Mr. Chairman, to burden the committee with them, because it is a matter of common knowledge, and the knowledge of the situation is exactly equivalent to a demonstration by figures. It could not be made plainer to this committee by figures than by the statement I make to the committee, and as to each statement it is a matter of common knowledge.

The CHAIRMAN. Before you get through, Judge, I wish you would give us your opinion as to the power of Congress to enact a bill by which a series of zones could be established and different rates required or exacted in those different zones.

Mr. PAYSON. I can give that, Mr. Chairman, in a word. I am bound to be, even if I say so of myself in this presence, entirely frank with the committee in what I say. I do not know whether the other gentlemen representing the other systems will agree with me on this proposition or not—they have not done so in the past, and probably will not in the future, and that is one of the possibilities of the future—but I have no doubt, and I concede it as against the corporations I represent, that Congress has absolute power in that regard; as absolute and unlimited as the Parliament of Great Britain. It is not restricted in this matter of regulation as to passengers or freight by anything except one thing, one consideration, and that is that whatever rate you do fix shall stand the test of being a reasonable rate for the service rendered, whenever the crucial time shall come to test it. Up to that time Congress can do what it pleases, in my judgment; but I am here to say that it ought not to be pleased to do anything that is not right. But fixing of zones is only one way of classification, and if the conditions are substantially similar as to all the roads, classification in that way may be made by the rate-making power.

Mr. TOWNSEND. Do you mean by that that Congress could fix a rate for one road between New York and the Mississippi Valley and on another road, similarly situated, a different rate?

Mr. PAYSON. Yes; I think Congress would have the power in the first instance to do that, but it would be subject to the review of the courts; and then would be determined what Congress ought to have determined in the first instance, whether the conditions of the two roads were such that there should be identity or similarity of action, and if not, the rate would be overturned. So far as the question of power is concerned, I have no doubt about the power.

Mr. TOWNSEND. I said they were similarly situated. Could they fix a different rate in that case?

Mr. PAYSON. Yes; but subject, as I say, to the right on the part of the road ill favored or ill treated to receive a reasonable rate for the service which it rendered.

The CHAIRMAN. And if it was reasonable, although it created inequality?

Mr. PAYSON. With some other roads, yes. Of course Congress would have the power, as I think.

Mr. KENNEDY. And the lower rate would actually prevail on both roads?

Mr. PAYSON. Oh, that is another proposition. I am addressing myself now to Mr. Townsend's inquiry as to the question of power. The question of policy is a different matter.

Mr. RICHARDSON. Suppose you take different rates for different sections and different zones and different roads. How would you get rid of the matter of joint traffic among or between them?

Mr. PAYSON. I would not do the first thing you have suggested. I am coming presently, at a later stage of these observations, to a consideration of the impolicy and impropriety of the undertaking on the part of Congress to fix these things, because there is a better method of doing it, as I shall point out later on.

Mr. BARTLETT. What do you say as to the power of Congress in interstate matters to force your road, for example, or the Pennsylvania road, to redeem a two-thousand or one-thousand mile ticket issued by another road?

Mr. PAYSON. In your absence the last time but one when I had the floor I showed, first, that such a thing could not be done, and I gave citations of decided cases in support of that proposition; that you can not force contractual relations between one road and another road in the absence of an agreement between themselves.

Mr. BARTLETT. That was in the discussion of the statute of a State. The State has no right to regulate interstate commerce. That was rather a violation of the charter, and that would require a man to do something without due process of law. I read that case in 106 Massachusetts after you referred to it. Just now I did not ask you about the State power. I asked you about the power of Congress in exercising its power under the Constitution to regulate interstate commerce.

Mr. PAYSON. I can answer it in a word, there, Mr. Bartlett, and my answer is this: That as to the power of Congress over interstate commerce, it is practically unlimited, but still subject only to the limitation that the Constitution provides. The power of the State over the State commerce is equally as broad, and the State may do with

State commerce anything that Congress may do with reference to interstate commerce.

Mr. BARTLETT. The State would not have the right to impair the obligations of that contract; but the Congress of the United States, irrespective of the fact that there was guaranteed in the charter granted by the State the right to make certain rates and regulations, could, in its regulation of interstate commerce, pass a law which would violate the State charter.

Mr. PAYSON. What I said the other day is in the record, and I do not think I could improve upon it by repetition.

The CHAIRMAN. Judge, you just said that Congress had no power to impose contractual relations upon railroad companies. Do you insist that that doctrine would go to the extent of denying the power of Congress to impose the duty of joint rates—a joint rate between connecting roads?

Mr. PAYSON. Not at all, sir; because that last proposition of yours comes at once to the proposition that what you are suggesting, Mr. Chairman, is simply a regulation of interstate commerce, and when the interstate commerce begins—that is to say, when any two railroads interchange traffic or accept freight upon one line, or passengers upon one line, to be transported by another line upon through bills of lading or through tickets—then they themselves establish such a contractual relation that Congress may come in and regulate it. Do I make myself understood?

The CHAIRMAN. Yes; but suppose they have not voluntarily gone into those relations, what then?

Mr. PAYSON. Then I think Congress is absolutely powerless, because there is no interstate commerce in it, if they have not entered into those relations.

The books lay down the doctrine that until there is commerce to be transported from one State to another, and it is received for transportation from one State to another, there is no interstate commerce. I take it to be perfectly clear that an independent railroad company in one State and an independent railroad company in another State having a union station, one company, A, may refuse to take freight from B if it chooses to do so.

Mr. KENNEDY. No; but it can not.

Mr. PAYSON. I am talking about what the law is, in the first instance. You can not compel a railroad to carry freight to be delivered to and be carried upon another road if it does not want to do so. The authorities are all that way. But, Mr. Chairman, do not let us be diverted now from the main question here, because I do not regard for the purposes of the argument I am making any questions now being commented upon in these colloquies as bearing upon these bills at all.

Mr. ADAMSON. Your position is that until the railroads voluntarily enter into interstate commerce, then, and only then, Congress has anything to do with it?

Mr. PAYSON. Yes; then Congress can deal with it, subject only to the proposition that property can not be taken without due process of law and that reasonable compensation shall be received for the service rendered.

Mr. RICHARDSON. What becomes, then, of that doctrine that the

railroad, being a common carrier, if it refuses, we will say, to transport or ship to another railroad certain property or produce, can be made to do that by law?

Mr. PAYSON. In the case I am supposing it is not a common carrier outside the limits in which it is supposed to act or chartered to act. Say, take the Chicago and Alton Railroad—that is, the original Chicago and Alton Railroad Company—I was connected with the legal department of that road, and it comes to my mind as an illustration. That road is entirely in Illinois. Suppose a shipper tenders it a package to be shipped into Missouri. Its lines end at East St. Louis, Ill., and it is only chartered to go to East St. Louis, and you can not compel it to take that parcel of freight beyond its own terminal; but for the convenience of the public it does enter into an arrangement with some other railroad on the other side of the river by which the freight can be taken to St. Joe, or elsewhere in Missouri, say. Now, as a common carrier its running obligations are simple to transport freight within the State of Illinois; but the broader responsibility comes whenever it undertakes by contract relation between itself and some connecting line of road to receive freight from the patrons in Illinois and convey it on a bill of lading to some point in Missouri. Then, when it undertakes that, it is in interstate commerce, the broader responsibility comes in, and it subjects itself to the controlling power of Congress in regulation as to what its charges shall be.

Mr. RICHARDSON. Then what becomes of this doctrine that a good many men adhere to, that by the consolidation of these different lines of railroad that have been chartered by different States the railroads consent to that sort of thing and surrender to a great extent their State charters by the consolidation?

Mr. PAYSON. Undoubtedly—

Mr. RICHARDSON. And that by the consolidation they lose the rights and privileges of simply confining the traffic to the limits of the State. What do you think of that?

Mr. PAYSON. That does not come up under this bill.

Mr. RICHARDSON. That applies to the railroad refusing to ship property.

Mr. PAYSON. The answer to that, Mr. Richardson, is that it is not a practical question, because no railroad in the Union does that. Every road in the country—from the shortest branch in the interior and in the mountains to the largest road in a thickly settled region—will take a box of freight consigned to anywhere and give a receipt for it. The question you raise is a purely academic question; in reality that question can not arise.

Mr. RICHARDSON. From your argument I take it that Congress does not have authority to enforce contractual relations between two railroads that did not want to do it, but would sit down and refuse to do it, and the intimation was that doing that would obstruct the enforcement of the law.

Mr. PAYSON. I say, broadly, Mr. Richardson, that the proposition is to compel one railroad to accept the tickets of another now, when their roads are not or may not be connected in interstate commerce. That is the precise question.

As I was saying, as to the roads I represent here, in no feature or factor of rate making is there any point of equality with the different

systems in the East. I have already adverted to the cost of construction. The cost of maintenance is another thing that must be taken into account and borne in mind in discussing these questions; and the cost of maintenance of the Central Pacific road, considering its enormous tunnel supervision and the snow sheds which it is required to maintain, together with the remoteness of its section men and the points from which they have to be gathered—I say in the consideration of this question the expense of that road, for example, is immensely in excess of the expense of some of the eastern roads.

Then another thing: There is a large number of branch lines, as I illustrated by this little colored folder here the other day. It makes a great difference, Mr. Chairman, if you have, on the one hand, a system such as the main system between here and New York, or between New York and New Haven, and then, on the other hand, a lot of branch lines like these in this folder, some of them being only 10 miles in length and each requiring independent operation. All these things should be taken into account, and if there is no similarity in conditions there should be no similarity in charges.

Wherever the population is sparse the trains are necessarily light, though they are run at practically the same expense of moving. That is to say, using the illustration that I made here the other day, which was somewhat graphic, and yet not at all unusual, of the little line of railroad from Maricopa to Phoenix; it costs our company just as much to run that train with 2 paying passengers and 1 deadhead as it would cost it to have hauled 50 people. The difference in the expense of hauling would not have amounted to a dollar; it would have been absolutely inappreciable. The same conductor would have performed his duties precisely the same. The 1 brakeman would have answered just as well for 50 as for 2 paying passengers. Yet that is the experience all over that country. Sparsely settled as it is, the number of passengers per train is necessarily very light. I do not include in these tables here, Mr. Chairman, although I have them in my hand, the number of passengers per train in the East and in the Southwest and West of the roads spoken of previously by the gentlemen representing the Denver and Rio Grande, the Santa Fe, and the Louisville and Nashville; but it makes a great deal of difference.

The CHAIRMAN. You say that table was put in the record?

Mr. PAYSON. Yes, sir; it was put in by some gentleman who preceded me. But I will insert this if you wish, this table showing the number of passengers per train in different sections of the country. It shows that in some sections the average number of persons per train runs up to 70. I will insert that table.

The CHAIRMAN. What are they in the system which you represent?

Mr. PAYSON. The average number of passengers per train is about 7.

Mr. RYAN. That includes excursions?

Mr. PAYSON. I take it so. I have not analyzed the figures to that extent, but I assume that it includes excursion as well as other trains.

Now, Mr. Chairman, these bills propose a blanket rate of 2 cents a mile. There is not a State, except Ohio, where such a rate is fixed by law. Ohio is exceptionally situated, by uniformity of conditions, for uniformity of rates. The whole State is dotted over, fairly and

evenly, with good terminals. In Ohio there is an average of 105 people per square mile; 22.4 miles of railroad for every 100 square miles of area; a population of about 4,500,000.

Now, whether or not that rate is going to be fairly remunerative in Ohio is a fairly open question. I have asked some people connected with the management of railroads in Ohio as to how it is going to work.

Now, returning to the State of Ohio, of course it is a matter of railroad history that the attempt on the part of the legislature of Ohio to make a flat rate was the act passed in April, 1906, the attempt may be said to have been experimental. Of course the railroads resisted it, and all sorts of showings were made. The railroad people said it would be largely injurious and would reduce their earnings below operating expenses, and prove seriously injurious to their railroads if that proposition should become a law and be enforced. How it is going to operate no one knows yet, but they say to me that this is a good year or good season, in which there is unexampled prosperity on railroads. It will take a year or two of experience under the law to determine whether they can live under it or not.

But Ohio is the only State in the Union that has tried that experiment, and as I have indicated here in a brief way, it is one of those things where, as to State traffic, possibly the similarity of conditions over the State may be such as to justify placing the same blanket rate over the State as to State traffic. I am not personally acquainted with the situation near the Ohio River, but with the State farther north I am pretty well acquainted, and I repeat the State is singularly well fitted as to the trying of such a blanket rate. It may not be especially hard even upon the poorer roads in that locality. But, Mr. Chairman, I repeat that Ohio is the only State where that experiment has been attempted.

Where the people in the different States have taken up the question and fixed maximum rates of transportation, these are the figures, taking the States alphabetically, Mr. Chairman: The rate in Alabama, fixed by the railroad commission, is 3 cents a mile; in Arkansas it is 3 cents a mile by act of the legislature; in the State of California the rates as fixed by the State commission run from 3 to 10 cents per mile. The commission under the laws of California have the right to vary the rates, in their judgment, as they deem appropriate. On some of our roads they authorize us, on some branches in the mountains, to charge as high as 10 cents a mile. There are some independent lines there that charge as high as 10 cents. But these rates are fixed and are constantly revised by the State commission of California as a change of conditions shall justify a change in rates. It has sometimes happened, as the reports of the Railroad commission of California will show, that they have raised the rates, and allowed the companies to raise the rates, when it was apparent that the rates fixed theretofore were too low.

Mr. BARTLETT. How about Arkansas?

Mr. PAYSON. There the rate is 3 cents.

Mr. BARTLETT. Wasn't there a road from Malvern Hill to Hot Springs where they charged 10 cents?

Mr. PAYSON. I do not know. The figures here were furnished by the statistician of the Interstate Commerce Commission. These figures which I read now, as illustrating what the commissions do,

I have abstracted myself from the reports of the California State railroad commission.

On May 7, 1903, on the Central Pacific, the board allowed a higher rate than that which was being collected on the main line upon these branches—from Sacramento to Placerville, 59 miles; from Berendo to Raymond, 21 miles; from Fresno to Portersville, 69 miles; from Brooks to Valley Spring, 40 miles; from Stockton to Milton, 20 miles, and on one other branch, 11 miles. The rates were specially fixed on each different branch of the Central Pacific system; one of 7 cents, another 8 cents, another 4 cents, another $6\frac{1}{2}$ cents, another 2 cents a mile. I had forgotten for the moment that we had any as high as 10 cents, but on the Nevada County Railroad system, only 22 miles in length, in northern California, the rate is 10 cents. Then from Visalia to Tulare, 11 miles, the rate is 5 cents, and from San Diego to Cuyamaca—an unpronounceable name—26 miles, the rate is 7 cents, and from Visalia to Yreka, 8 miles, the rate is 8 cents. This is the action of the State railroad commission of California.

Now, reverting again to the action of the Illinois State Commission. There the true system has been adopted. In Illinois the proper rate of fare and how to determine it had been a matter of discussion for many years. The question of railroad rates had been constantly discussed, and it perhaps had its origin in the fact that the Illinois Central, which was one of the pioneer roads in Illinois, was constructed largely with the aid of a liberal grant of land from Congress. It ran the entire length of the State of Illinois, from Dunleith to Cairo, with a branch from Centralia to Chicago. It got this great grant of land from Congress in aid of its construction. It was a road that was built at a fairly cheap rate for its day.

To give a little more fully the history of its inception I will say that there was a provision in the State charter that it should pay 7 per cent of its gross earnings to the State, but on account of the land grants and the comparatively inexpensive character of its construction it was a question every year whether the railroad was not charging too much, whether its rates were not too high, and it was a matter of discussion for years. Necessarily the subject was discussed from every possible standpoint, and it resulted in the State providing for the creation of a railroad commission, and that commission proceeded to make a classification of the roads. That classification I hold in my hand, and I need not stop to read it at length, but it gives the different lines of road, and in passing it is enough to say that the commission in its wisdom took all the roads in the State of Illinois and divided them into five different groups.

For the first group they allowed a charge of 3 cents a mile; for the second group, $2\frac{1}{2}$ cents; for the third, three and one-fourth, four, $3\frac{1}{2}$, 4, and 5 cents. The second group, at $2\frac{1}{2}$ cents a mile, was the Lake Shore, the Michigan Central and the Pennsylvania; and you all know, of course, that they run a comparatively short distance in the State of Illinois, and their immense passenger traffic is made up from the fact that they are through lines from the West to the East. But these particular lines within the limits of Illinois were restricted to $2\frac{1}{2}$ cents a mile. The first group, as I say, was allowed 3 cents a mile, and it includes the Chicago and Alton; the Chicago, Burlington and Quincy; the Chicago and Northwestern; the Chicago, Rock Island and Pacific; the Illinois Central; the Indiana, Bloomington

and Western; the Indianapolis and St. Louis; the Ohio and Mississippi; the Pittsburg, Cincinnati and St. Louis; the Wabash, and then running on down to some of the little coal roads.

This is the classification and rates.

[From the Report of the Illinois Railroad and Warehouse Commission, year ending November 30, 1879, pp. v, vi, vii.]

SCHEDULE OF REASONABLE MAXIMUM RATES.

An analysis of the returns shows an existing necessity for a revision of several of the schedules of reasonable maximum freight and passenger rates, prepared for the several railroad corporations of Illinois under the act of 1873 to prevent railroad extortions and unjust discriminations.

The schedules were prepared in 1874, since which time very material changes in the railroad business of the State have taken place.

In the preparation of the schedules the commissioners grouped the railroads into five groups. Into the first group, which may be called the standard group, were placed all the railroads doing about the same amount of business at about the same expense of operation, as follows (using the present names of the companies):

First group.—Chicago and Alton; Chicago, Burlington and Quincy; Chicago and Northwestern; Chicago, Rock Island and Pacific; Illinois Central; Indiana, Bloomington and Western; Indianapolis and St. Louis; Ohio and Mississippi; Pittsburg, Cincinnati and St. Louis; Wabash.

Into the second group were placed all the roads doing a greater business than the roads of the standard group, as follows:

Second group.—Lake Shore and Michigan Southern; Michigan Central; Pittsburg, Fort Wayne and Chicago.

The remaining roads were grouped according to the business being done by them at that time and the expenses they were necessarily at in doing such business, as follows (using the present names of the companies):

Third group.—Chicago and Eastern Illinois; Illinois and St. Louis; St. Louis, Alton and Terre Haute; Toledo, Peoria and Warsaw; Western Union.

Fourth group.—Peoria, Pekin and Jacksonville; Rock Island and Peoria; St. Louis, Rock Island and Chicago.

Fifth group.—Gilman, Clinton and Springfield (now operated by Illinois Central); Chicago and Iowa; Hannibal and Naples (now operated by Wabash); Peoria, Decatur and Evansville (formerly Pekin, Lincoln and Decatur, and Decatur, Mattoun and Southern), St. Louis and Southeastern; Cairo and Vincennes.

Since the above grouping was done, the following-named roads have been put into the fifth group:

Additions to fifth group.—Baltimore and Ohio and Chicago; Cairo and St. Louis; Carbondale and Shawneetown; Chicago, Milwaukee and St. Paul; Chicago and Pacific; Chicago and Paducah; Chicago, Pekin and Southwestern; Cincinnati, Lafayette and Chicago; East St. Louis and Carondelet; Evansville, Terre Haute and Chicago; Galena and Wisconsin; Grand Tower Mining, Manufacturing and Transportation (Grand Tower and Carbondale); Havana, Rantoul and Eastern; Illinois and Midland; Indianapolis, Decatur and Springfield; Lafayette, Bloomington and Mississippi; Louisville, New Albany and St. Louis; Danville and Southwestern (formerly Paris and Danville); Rock Island and Mercer County; St. Louis, Vandalia and Terre Haute; St. Louis and Southeastern; Springfield and Northwestern; Sycamore and Cortland; Wabash, Chester and Western; Belleville and Eldorado; Danville, Olney and Ohio River; Grayville and Mattoon; Moline and Southeastern; Mineral Point; Jacksonville Southeastern (formerly Jacksonville, Northwestern and Southeastern).

On this grouping, rates were established as follows:

Passenger rates per mile.

On roads in—	Over 12 years.	12 years and under.	Fare paid on cars.
	Cents.	Cents.	
First group.....	3	1½	10 cents in addition.
Second group.....	3	1½	Do.
Third group.....	3½	1½	Do.
Fourth group.....	3½	1½	Do.
Fifth group.....	4	2	Do.

* Lake Shore, Michigan Central, and Peoria and Rock Railroad.

Mr. ESCH. Is that schedule now operative?

Mr. PAYSON. It is now operative. It has not been changed for many, many years.

Mr. KENNEDY. Do you know how they reached such a conclusion? Did they take into consideration the gross earnings per mile of road?

Mr. PAYSON. They took into consideration all the factors—the cost of construction, cost of operation, mileage run, traffic and traffic conditions, the amount of its bonded debt, and all that sort of thing. I may say, as to the amount of debt and stock and bonds outstanding, there has never been any claim, so far as I know, of the watering of the stock of those roads in Illinois. They were built as business enterprises, and very few of them were ever engaged in kiting operations in one way or another.

I might perhaps insert here, if it were desired, a statement contained in the report I have here of the annual convention of the railroad commissioners, where they enlarged upon that subject before the Interstate Commerce Commission in 1883. The result of all that was that, appreciating at once, Mr. Chairman, the injustice and impropriety of attempting to fix a blanket rate on all these different roads, they divided them into five different classes.

The railroads have been satisfied, and the people have been satisfied, and there have been, so far as I know, no criticisms upon the action of the board of railroad commissioners in Illinois, either as to the method of fixing the rates or the reasonable character of those rates. I have never heard any observations from Mr. Mann, the energetic Member from Illinois, as to the action of the commission in that State, although in more than one instance in this discussion it has been adverted to.

The CHAIRMAN. Let me ask you if at that time the classification of these rates met with your approval?

Mr. PAYSON. I can only speak of the road with which I was connected. I was connected with the Chicago and Alton Railroad, and it did meet with our approval. The Chicago and Alton Railroad has had a unique experience. There never was a time when it did not pay a dividend on its common stock. At the head of it were Mr. T. B. Blackstone and a lot of Boston capitalists. It was capitalized at exactly the cost of building. The money put into it was put in as an investment by the capitalists who built it, and it was run as a business enterprise, without regard to the stock market or outside influences of any kind, and there never was a year from that time down to the time when I severed my connection with it—and that was when I came to Congress in 1880, and I have read accounts of it since, keeping in touch with Illinois affairs, and I hope to do so as long as I may live—and there never was a year when it did not have a successful operation.

Its geographical situation was such that it commanded success. It is a railroad well constructed, without any extraordinary expenses connected with it, connecting the two cities of Chicago and St. Louis, running through the garden spot of all the world—for there is no better country agriculturally in the world than that country through which the Chicago and Alton runs, from Joliet to East St. Louis; and it has often paid as high as 8½ per cent. When the matter came before the railroad commission our people were perfectly content with it and accepted it, and have been so ever since.

The CHAIRMAN. What year was that?

Mr. PAYSON. This report was in 1879. I should say that action of the Commission was two or three years before that.

The CHAIRMAN. What changes in the density of population have occurred since that time?

Mr. PAYSON. Very large changes, particularly in central and southern Illinois. But, Mr. Chairman, the reports of the railroad commission will show, and I have here the report of Mr. James Charlton, the general passenger agent and ticket agent of the Chicago and Alton Railroad Company, treating that very question, wherein he demonstrates that the increase in the density of the population has required on the part of the railway company, for the convenience of the public, an increase in the number of trains, an increase in its conveniences, an increase in the number and character of its station buildings, and so on, so that the net returns of its operating expenses from its passenger service are no greater in the way of net results from which dividends could be derived than they were when the country was more sparsely settled. The road was a dividend earner from the start.

He goes on to show there that not only do they require more expensive station houses and all that sort of thing, but a heavier class of rails, better trains, and more of them. One illustration he makes is that whereas the average cost per passenger car when the road commenced operations was \$3,000, now they run as high as \$8,000 and \$10,000; and that while the cost of passenger engines was formerly but a few thousand dollars, now it runs up to \$10,000 and \$15,000. It costs more money to get them and operate them, and the wear and tear upon the right of way is greater, and heavier rails have to be used, because in the operation of a heavy passenger traffic, to insure the safety and security of the passengers upon the trains, a better rail is required than in the ordinary freight traffic.

All those things have to be taken into account, and all are acceded to, and it seems to me, Mr. Chairman, while the expenses and everything connected with the operating departments of all these roads, and particularly the Chicago and Alton, have increased very largely, the local rate per mile per passenger for a ticket has been constantly diminished.

The CHAIRMAN. Does the ratio of cost to the volume of business increase with the density of population?

Mr. PAYSON. I did not catch that.

The CHAIRMAN. I say, does the ratio of cost or volume of business increase with the density?

Mr. PAYSON. The figures show that that is practically the result all over the Union, as I learn from practical railroad men.

The CHAIRMAN. If that were true, then it would be fair to establish the same rate in the sparsely-settled country as in the densely-populated country, would it not?

Mr. PAYSON. Not at all, because the rate to be established must be in the first instance a reasonable rate, and what might pay a railroad in the first instance as a fair and reasonable rate, without any regard to density of population as a factor from which the travel might be expected to be drawn. In the first instance the question is, What is a reasonable rate for the service to be rendered?

Mr. ADAMSON. Did you mean to say it would increase or decrease the ratio of expense or cost to the volume of business?

Mr. PAYSON. The more business there is, the more it is done with modern methods, the more money it costs to do it.

Mr. GAINES. Don't you mean that the cost increases with the density of population? You have said the ratio.

Mr. PAYSON. No; I mean the cost of doing the business increases.

Mr. ADAMSON. I thought you misunderstood it. That is the reason I interrupted you.

Mr. PAYSON. Yes.

Mr. ESCH. Has not the ratio of cost of operation to the gross earnings hovered around 64 per cent for quite a number of years?

Mr. PAYSON. That depends on different roads.

Mr. ESCH. I mean the average.

Mr. PAYSON. I could not say as to that. My attention has only been called to some specific cases. I have seen the statement made that the passenger earnings of the New Haven and Hartford road approach perhaps 50 per cent of its entire revenue. I was surprised on hearing it. It has been stated on many occasions that it is 18 per cent on some of our roads West.

Mr. KENNEDY. The gross earnings of that road are \$25,694 per mile of track. The passenger earnings are \$12,246. That is practically 50 per cent.

Mr. PAYSON. Yes. That is what I said; practically 50 per cent.

The CHAIRMAN. The hour of adjournment has arrived—

Mr. PAYSON. Do we go on to-morrow at 10.30, Mr. Chairman?

The CHAIRMAN. We have a special order, set sometime ago, for to-morrow morning. The committee will have to determine as to that.

Mr. PAYSON. I do not insist that we be permitted to go on continuously. Whatever is the convenience of the committee is my convenience, but if the committee should determine that we could not come here to-morrow it would save us a day, if you have some other business that has to be transacted.

Mr. TOWNSEND. The hearing on the arbitration bill will consume to-morrow's session. I have notified some of the people to be here. I have heard from a great many of them.

The CHAIRMAN. If it is your pleasure, then, gentlemen, I will announce that the present hearing will not be continued to-morrow. If there is no objection, this hearing will be interrupted until Thursday, when it will be continued again.

Thereupon, at 12 o'clock, noon, the committee adjourned.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Thursday, January 17, 1907.

The committee met this day at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order.

Mr. HILARY A. HERBERT. Mr. Ryan, of the Seaboard, the traffic manager, is present, and would like to be heard if you can take him up now.

The CHAIRMAN. Very well. Mr. Ryan, you may proceed.

**STATEMENT OF MR. C. B. RYAN, GENERAL PASSENGER AGENT,
SEABOARD AIR LINE.**

Mr. RYAN. Mr. Chairman and gentlemen of the committee: If I am right in assuming that a reduction of passenger fares is contemplated because of the known immense increase in traffic, I think, in my humble opinion, that an error has been made, because it has not taken into consideration the immense increase in the cost of operating railroads.

While it is true that traffic has increased in great proportion, it is at the same time also true that the cost of operation has grown so enormously that, instead of great gains being made in net earnings, our company at least has shown a decrease in the net result, due principally to the increase in cost of labor and fuel, although there has been also an increase in the cost of everything that enters into our operating expenses. This increase has been brought about, first, by the heavy advance in the wages of labor, and, second, by the heavy advance in the cost of coal; although, as I say, every item which goes into the operation of a railroad has increased.

The CHAIRMAN. Mr. Ryan, do you prefer that questions should be put to you as you proceed, or would you rather go on until you get through and then have questions asked of you?

Mr. RYAN. I am here subject to your pleasure and convenience.

The CHAIRMAN. If it suits you just as well, I will ask you a question now, but not unless you prefer it this way.

Mr. RYAN. Whichever you prefer.

The CHAIRMAN. What has been the increase in wages in the last ten years?

Mr. RYAN. I can not give the increase in the last ten years. In fact the Seaboard Air Line Railroad system is not that old. It is not ten years old.

The CHAIRMAN. When you spoke of the increase, from what date had you the increase in mind?

Mr. RYAN. I had in mind particularly the last pay rolls, because the increase has been especially great with us in recent months. The increase of our pay roll in the month of August and the increase of our fuel account and other items in the month of August amounted to something over \$200,000.

The CHAIRMAN. From the increase incident to the enlargement of the road, or from an increase of consumption or an increase of prices?

Mr. RYAN. No; the increase is largely in the increase in wages we have to pay. For instance, in our construction, as short a time ago as four years ago, we paid 75 cents a day for labor on the road. We can not get labor to-day for \$1.25.

The CHAIRMAN. That is in the matter of unskilled labor?

Mr. RYAN. That is in labor to keep our property up. I have not the increased cost in detail, so as to give you the increase in salaries of telegraph operators or the increase in the salaries of each individual item on the pay roll, but—

The CHAIRMAN. Has there been any considerable increase in the pay of telegraph operators, we will say, in the last five years?

Mr. RYAN. My understanding is that there has been an increase from \$45 a month up to \$55 a month for telegraph operators, and some of the operators used to get less than that. Some agents were

operators as well as agents and were paid on a commission basis, and paid as little as \$17.50 a month, but we have not got them now except at the regular scale fixed by the Order of Railway Telegraphers.

The CHAIRMAN. What has been the increase in wages in the last five years of enginemen?

Mr. RYAN. I could not give you all that information because that does not come within the scope of the passenger department.

The CHAIRMAN. What has been the increase in the price of bituminous coal in the last five years?

Mr. RYAN. Well, bituminous coal four years ago, as I know, we got as low as 65 cents for run of mine at the mine. We can not get coal now sufficient under our contracts to keep us going. We have some coal contracts at 85 cents, made for five years, and we have three years still to run at 85 cents at the mine, but we can not get coal to run us at that rate, and we are paying \$1.10 now where we were formerly paying 65 cents.

The CHAIRMAN. At the chute?

Mr. RYAN. No, sir; that is for the run of mine, say at \$1.10 at Birmingham, or 85 cents for the run of mine on the Norfolk and Western at the Norfolk and Western mines, and that is something like \$1.45 more when delivered to us.

The CHAIRMAN. Delivered on the cars?

Mr. RYAN. Yes; delivered to us.

Mr. KENNEDY. Your first price was loaded on the car at the mine?

Mr. RYAN. Yes; it would be more than that now because the rate from the mine delivered to us would be \$1.45 for the freight alone. Prior to the rate bill the railroads had a lower rate than the commercial rate, but now they have to pay the commercial rate on the coal.

The CHAIRMAN. What distance does that coal haul that costs you about 85 cents a ton?

Mr. RYAN. I think in round numbers about 300 miles.

The CHAIRMAN. Do you regard that as a fair rate?

Mr. RYAN. Yes: that is about 5 mills per ton a mile. That is a pretty good rate for it. During the last five years we have gotten coal as cheap as \$1.91 delivered to our rails from Norfolk and Western fields and recently for the same coal have paid \$2.60. For Birmingham coal we have paid \$1.78 and recently \$2.58 at Montgomery. In order to secure coal at Savannah, where we have gotten coal as low as \$1.23, we have had to buy a vessel at a time at \$4.25, and this is now the price there.

The CHAIRMAN. Now proceed.

Mr. RYAN. The tendency of railroad rates for some time has been downward, and yet everything else, whether a necessity or a luxury, has been advanced. I refer principally to living expenses, because of that I know more than of anything else. I suppose you gentlemen can bear out my testimony in that respect, because we all have to pay out more for the necessities of life than we did five years ago.

Please consider this condition well, namely: If, at a time when the traffic of the country is admittedly great, our net earnings are less than they were a year ago, what, then, may I ask, is to become of us if, first, our earning power is impaired by the proposed rate reduction, and second, our gross earnings are still further reduced by a falling off of traffic, which in the course of time is inevitable? This falling off in earnings will not wait for adjustments in wages and in the cost

of fuel, which travel slower. It will mark another period, probably, in the financial history of the Seaboard, which has more than once hitherto been forced, in its efforts at development and preservation, to raise money on its future hopes. Its earning power, however, is its credit, and this the proposed legislation would impair, if not altogether destroy; for in my opinion a reduction in our rates, whether in the nature of a flat rate or through the medium of a mileage ticket, would prove ruinous to our property, for the reason that with existing rates we are barely able to pull through.

The CHAIRMAN. Let me ask you, if you please: Suppose this bill should become a law, what would be the aggregate reduction of your receipts?

Mr. RYAN. Our receipts last year from passengers were three and one-quarter millions, and I believe the aggregate reduction would be in proportion to the reduction of the rate. If a reduction of 1 cent in the rate would mean a reduction of one-third in the average, it would mean a reduction of one-third in our receipts.

The CHAIRMAN. Do you believe that would be the result?

Mr. RYAN. Yes; I believe it would mean a reduction of one-third in our receipts—coming from business now paying the 3-cent rate.

Mr. ADAMSON. Do you not believe a reduction in the rate would stimulate your traffic?

Mr. RYAN. I have no reason in the world to believe that.

Mr. ADAMSON. Do your trains now run full, or could you accommodate a greater number of passengers without increasing your rolling stock?

Mr. RYAN. We handle, of necessity, a heavy train, because we have to take care of the largest amount of business at some time on the road, which requires a heavy train. But the usual course is for us to carry a great deal of deadwood. Our train earnings are not large, and yet the trains are very heavy, because at this season of the year, for instance, we have a heavy traffic southbound and a light traffic northbound.

Mr. ADAMSON. It would be possible for you to carry more passengers, would it not?

Mr. RYAN. No; because if we could do without the deadwood we would cut it off. Our trains are constituted to handle the business that comes to us now.

Mr. ADAMSON. Does the system as you have it carry the full capacity?

Mr. RYAN. It does at times. For instance, there may be two days in a week when we would run at the full capacity of the train and five days when we would run at less than the full capacity of the train. But suppose we tried to reduce our equipment, how could we meet the changing conditions of traffic?

Mr. ADAMSON. I was asking you if a reduced rate would stimulate travel so that you could fill your seats on the other five days of the week.

Mr. RYAN. I think not. It has not done so in Ohio.

The CHAIRMAN. Mr. Ryan, what is the average number of passengers per car or per train on your road?

Mr. RYAN. Our average number is about 34.

The CHAIRMAN. Thirty-four to a train?

Mr. RYAN. Yes.

The CHAIRMAN. What would be the average capacity, or the capacity of the average train?

Mr. RYAN. The average capacity, say, of our Florida line——

The CHAIRMAN. No; take all of your trains that you have given in your other answer, where you say 34 passengers to the train.

Mr. RYAN. The average capacity would be three cars—a little over two cars; because some run with two cars and some with three. Let us say it averaged three cars to a train; that would be 150 passengers, with two in a seat at the average, taking about 50 to a car.

The CHAIRMAN. Then the average is about 15 per car—per car having a capacity of 50?

Mr. RYAN. Yes.

Mr. ESCH. Is not the average capacity of a coach 60?

Mr. RYAN. Yes; the average capacity of a coach is 60. But you take the case of children. Suppose you take a woman traveling with two small children; we get nothing except for the adult. You probably would not find any place to sit in the same seat with the woman.

The CHAIRMAN. What is the average number of passengers per car to the Pullman or to the sleeping car?

Mr. RYAN. I have not that separated.

The CHAIRMAN. Have you the means of furnishing that?

Mr. RYAN. Our Pullman cars would average, I think, about 10 to a car.

The CHAIRMAN. You think they will average that?

Mr. RYAN. Yes.

Mr. ESCH. The capacity is 24, aside from the compartment?

Mr. RYAN. Yes.

Mr. ESCH. Probably 26?

Mr. RYAN. Yes, 26; with the drawing room.

Mr. GAINES. Mr. Ryan, you speak of the unused space in the car as "deadwood." I understand you have a greater amount at this season of the year of deadwood coming North than going South?

Mr. RYAN. Yes.

Mr. GAINES. You have to have the same number of cars each way, do you not?

Mr. RYAN. Yes. We have to carry the same sized train back North in order to go South again. Later on those conditions may reverse.

On some of the roads, take the New York Central, for instance, which is favored with a very heavy traffic, their trains will average about 66 people, and that is the same on the New York, New Haven and Hartford, and on the Lake Shore and Michigan Southern. Those are three roads going through very heavily populated regions.

The CHAIRMAN. Now, can you give us some idea of the number of cars in that train that averages 66 persons?

Mr. RYAN. That is the average of all. Some of our trains are run with a combination car and coach on the branch lines, and some with combination car and two coaches on the main lines, and some with three full coaches on the main line; and then there are some with as many coaches in addition to sleeping cars and Pullman parlor cars.

Mr. HERBERT. I think that the Chairman in asking the question had in mind some of those heavy trains in regions where there is congested traffic.

Mr. RYAN. Some of their local commuter trains would run still higher than that in the number of coaches.

The CHAIRMAN. You have given the number of persons. Now I want you to give the average number of cars.

Mr. RYAN. The consistence of the trains as a rule for through trains would be two coaches, sometimes three coaches, and a parlor car and a sleeping car and two or three Pullmans, making the train run as high as ten cars, including mail and express, and the coaches and sleepers or parlor cars. On the commuter trains they will run six or eight cars without any Pullmans. On some of the trains, the side line trains, they will run a good deal less than that.

Mr. ESCH. Would they average three?

Mr. RYAN. They would average more than three in a big road like that. I am only giving this from my general knowledge of the business. I have not the figures.

Mr. MANN. You have not made any figures?

Mr. RYAN. No, sir.

The CHAIRMAN. Would it be a safe proposition to say that, taking all the passenger trains in the United States, one-third of the space is unused?

Mr. RYAN. One-third of the space, I think, on our line is unused during a part of the year.

The CHAIRMAN. I mean two-thirds of the space is unused?

Mr. RYAN. Yes, it is on our lines a part of the year, for a part of the trip. But we have to provide the space because at other parts of the trip we may need it.

Mr. ADAMSON. You do not know on which day you will need it?

Mr. RYAN. No. We are bound to carry them to take care of the people, and yet in the end you will see how low the average is. We are constantly working upon some plan to lighten the trains. They are so heavy, because the equipment has grown so much in weight it is difficult for us to make our schedules.

Mr. ESCH. Have you any grades that are heavy?

Mr. RYAN. Not long ones on our main line. We have many dips. Like a great many other roads that were built on small capital, the builders of the seaboard stuck to the surface as much as possible, and we go uphill and down all the way. We encounter $1\frac{1}{2}$ per cent grades; that is, 78 feet to the mile; but they are not long. The average number of passengers per train mile on our road is only 34. I had another road in mind when you asked me the question, and I said 45. I should have said 34.

The CHAIRMAN. That includes everybody you carry, deadheads and all?

Mr. RYAN. That includes the pay passengers. We do not carry many deadheads now, especially, except those principally whose business it is to ride in the train.

The CHAIRMAN. What was the percentage of your deadheads prior to that, including everybody—your own employees and everybody?

Mr. RYAN. I think the percentage of deadheads would run about 10 per cent.

The CHAIRMAN. What proportion of that would be your own people?

Mr. RYAN. I think more than half of it would be our own people; probably three-fourths of it would be our own people. Our road, it

must be understood, is not fully developed, and needs constant care and nursing, and this demands money, whether we earn it or not. But it must be apparent to everyone that when a road is constructed through an undeveloped country adequate returns do not come until after development has been reached, and therefore the amount necessary for such development through the operation of the road, over and above its earnings, becomes a part of that road's cost, just as much as the grading, the ties, the rails, and all other items entering into its construction.

This is evidenced in the increase in capitalization since the Seaboard was first formed. The increase represents loss in the cost of operation, and most assuredly does not represent what is commonly known in the railroad world as "watered stock." I am impressed with an illustration within the Seaboard system itself which will make my meaning clear. The Baltimore Steam Packet Company, otherwise known as the Bay Line, has been established for a very long number of years. Its business has become established because the territory served by it has been developed, and I am told that it earned several years ago as much as 12 per cent on the capital invested.

The Seaboard Air Line Railway purchased this property, and undoubtedly now it is more valuable than ever before, because, in addition to its own earnings, a great amount of traffic is turned over to it by the Seaboard, and yet its net earnings are all absorbed by the railroad system and are used to pay the expense of operation of the system not sufficiently developed to sustain itself. In other words, the part that earns a profit must bear the burden of the part that shows a loss.

It has been shown here by Mr. Nicholson and others that a rate which might prove reasonable and just for one road might be unreasonable and unjust when applied to another, because of the difference in the density of traffic which comes with the density of population, and also in the physical construction which would affect the cost of operating the two roads. Thus, by comparison—and these figures are from Poor's Manual—the New York Central and Hudson River Railroad for the calendar year of 1905 operated 3,774 miles of road. It earned 1.73 cents per passenger per mile. It earned \$6,828 per mile of road, with train earnings from passengers alone of \$1.10 per mile. But the keynote is found in its density of traffic, 388,000 passengers having been carried 1 mile per mile of road.

Our density of traffic for the fiscal year of 1905 was 47,800 passengers carried 1 mile per mile of road. We operate 2,610 miles, earning 2.327 cents per passenger per mile, with train earnings from passengers of 81 cents, or about \$1,100 per mile of road. The New York, New Haven and Hartford for the fiscal year ending June 30, 1905, with 2,075 miles of road, carried 565,000 passengers 1 mile per mile of road. The average rate per passenger per mile was 1.7 cents; the train earnings were \$1.37, and the earnings per mile of road from passengers \$9,638.

The Lake Shore and Michigan Southern, in a different territory, with 1,520 miles of road, for the calendar year of 1905 carried 243,000 passengers 1 mile per mile of road, and its trains from passenger traffic earned \$1.10 per mile. It earned \$5,043 per mile of road, with an average rate of 2.035 cents.

Surely no one will say, with this before them, that a reasonable rate

on any of these roads would be reasonable on ours. You are all, of course, familiar with the long, heavy trains of the great systems requiring monster engines to pull them. The limit of weight seems to have been reached. Therefore, if the rate is reduced $33\frac{1}{3}$ per cent, and it requires 50 per cent more passengers to produce the same revenue, this increase will require more trains, for the existing ones will not handle the people. If you reduce the rate one-third, you must increase the number of people handled 50 per cent in order to make the earnings the same or sufficient to take care of the reduction in the rate.

It has been suggested that the earning power of a road should form the basis of its rate; and while this may seem fair, it would not work out in practice, since the weak line would either have to meet the rate thus fixed for the strong line or else be driven out of business. Neither can a uniform rate be made, for the reason that the standard applying to the short line would give the longer competing lines relatively less.

Another suggestion has been that a territorial division be made, on the assumption that the density of traffic would be found uniform within certain boundaries. Here, again, I believe, it will be found that the weak must be made to suffer for the strong. If this plan were adopted, a new and undeveloped road could not live in the territory served by one of the strong lines, and it would only be a short time before the strong line would have absorbed the weaker one. This hardly needs an explanation, for the reason that it is plainly apparent that the weak line must either adopt rates no higher than those of the strong lines or else go out of business between competitive points. It seems to me that the effect of such a plan would be to absolutely put a stop to new construction.

This, it seems to me, is a very serious proposition, for the reason that we occupy a territory served by an older line competing with us at almost every point we reach. If it was deemed by the law that the older line could stand the loss, and the law thought that we could not stand the loss, what remedy, I would like to know, would there be for us? We would be hemmed in.

Mr. MANN. Which is your competing line—the Southern?

Mr. RYAN. The older line that I refer to is the Atlantic Coast Line principally.

Mr. MANN. Let us take it simply for an illustration. Let me ask you: Do you think that if the Atlantic Coast Line, for instance, was by itself and there was no other competition or line there, and the rate ought to be reduced to 2 cents, therefore because you are there the Atlantic Coast Line shall be permitted to charge the public an excessive rate? Should the public pay tribute to that road merely for the purpose of protecting your road?

Mr. RYAN. Well, that is rather a hard matter to decide.

Mr. MANN. I do not mean to refer to your road in a specific way or to you personally, but I simply used that as an illustration.

Mr. RYAN. I could not answer it with any degree of positiveness or in a way that would carry weight, but I would like to ask a question myself—without, however, the hope of having it answered, because I do not believe it can be answered: What kind of a law is it in these days, when monopoly is so much discountenanced—what kind of a law is it that will help to build up a monopoly at the sacrifice of a weak line?

Mr. MANN. Your position, then, is that the Government, in order

to prevent monopoly, should require the people to pay a larger or higher rate than is necessary in order to prevent the absorption of the weak line by the strong line?

Mr. RYAN. I cannot assume that there is any line in our part of the country that is earning more than a reasonable operating expense on its passenger trains. The Atlantic Coast Line Railroad I spoke of in a general way only, because it is an older road and because it enjoys a heavier traffic than ours.

Mr. MANN. I assumed that just for the purpose of argument.

Mr. RYAN. Yes. I noticed in their last year's annual report, or rather for June 30, 1905, that they only earned 76 cents per mile from their straight passenger business, exclusive of mail and express.

Mr. PAYSON. What was the amount of their operating expenses?

Mr. RYAN. Sixty-two per cent, I think, in that year.

Mr. MANN. I was referring, of course, to your argument, and using that simply as an illustration, because you had used it yourself as an illustration.

Mr. RYAN. I used it in a general way, because it was an older road and enjoys a heavier traffic. But when you speak of its earning excessively, I speak of its earning 76 cents a mile.

Mr. MANN. Suppose that two cents a mile was a reasonable and fair rate to pay: Would you still say that the Government ought to permit it to maintain a still higher rate, an excessive rate, and thereby require the people to pay tribute to that road in order to protect your road?

Mr. RYAN. All I can say is that if the Government does not show any interest in infant industries in railroads, as it has done in the case of other infant industries, we would be in a mighty poor fix. I would like to know how we would ever come out. The only solution would be that we would have to get the Atlantic Coast Line to buy us. It means, if you are going to make a law to cut the earnings down on the strong lines without regard to the weak lines that the only hope for the weak lines is to sell out to the stronger lines, and thus increase the monopoly in that way.

Mr. KENNEDY. The weak line is at the mercy of the strong line anyway. The strong line can put the price down and do you up.

Mr. RYAN. The weak line is a pretty poor proposition.

Mr. MANN. I think the strong lines usually claim that they are at the mercy of the weak lines.

Mr. RYAN. It is a pretty complex question.

Mr. GAINES. Well, Mr. Ryan, since it is an unsettled question whether the public service can best be regulated by competition or by some Governmental regulation, or by both, your position is, as I understand it, that it is certainly questionable policy now for the Government to pass a law which in your opinion would destroy competition. That is your proposition, is it not?

Mr. RYAN. My whole feeling is very intense upon this point, that I would hate to see the Government pass a law which would destroy the Seaboard Air Line Railway, and I believe that a bill such as this would. I do not think there is any hope for us if you take the revenues away from us now upon which we are barely able to live. I do not see anything to come of us except to try to find a purchaser in one of the competing lines.

Mr. KENNEDY. What is the relative proportion between your earnings from freight and passenger traffic?

Mr. RYAN. It is about 21 per cent.

Mr. KENNEDY. Twenty-one per cent of the gross earnings from passengers.

Mr. RYAN. We earned three and one-half million dollars from passengers, and the freight department made about \$11,000,000. I think it is about 21 per cent.

Mr. ESCH. Then your opinion, Mr. Ryan, is that a reduction of 33½ per cent in your passenger earnings, which total three and one-half millions as the result of the passage of this bill, would put you out of business, although your freight rate would not be affected?

Mr. RYAN. Yes. The statement of the Seaboard was published yesterday in the papers for the month of November and for the period covered between the 1st of July to November 30, showing that the Seaboard, after paying its fixed charges, had a deficit of over \$300,000 in five months.

Mr. ESCH. You have done a large amount of construction work in the last six months?

Mr. RYAN. Not in that. That has gone into operation, not construction.

Mr. HERBERT. What did you say the deficit was?

Mr. RYAN. Over \$300,000 from the 1st of July to the 1st of December. Now, if we had that deficit and added to that the deficit to be caused by a reduction of one-third in passenger revenues, it would not be very long before we would look for a purchaser, because I do not think new money would see the hope to live on the road.

Mr. ESCH. What is your bonded indebtedness?

Mr. RYAN. The total capital liabilities are \$131,000,000.

Mr. ESCH. On a total mileage of how much?

Mr. RYAN. Two thousand six hundred and ten of our own mileage, and we have assumed the construction of the road between Atlanta and Birmingham 167 miles, and the Florida and West Shore. In round numbers it would be about 3,000 miles.

Mr. KENNEDY. Can you state what the amount of fixed charges was? What was that amount?

Mr. RYAN. I can give you this from the last annual report, June 30, as to current liabilities. The annual interest then on the bonds was \$2,748,650, to which should be added interest on equipment and floating debt, taxes, and rent of roads, making total of \$3,647,609.11. Our stock is divided, \$25,000,000 in preferred stock and \$37,500,000 in common stock and \$57,840,000 in bonds, in addition to the bonds of the Atlanta and Birmingham and the Florida and West Shore and the Wilmington bridge.

Using the basis once prescribed by the Interstate Commerce Commission, we found that it cost us last year 77½ cents per mile to operate our passenger trains, exclusive of their share of interest and taxes; and as this expense must be met, as well as any direct operating expenses, it will be seen that we have not yet reached a point where our passenger business is self-sustaining. Therefore, if our train earnings should be reduced, we would either have to reduce the number of trains or find some way to economize in order to meet conditions.

Our local rate in the six States reached by us is 3 cents per mile, except in North Carolina, where the first class is 3½ cents and the second class 2½ cents, the average in that State being about 3 cents per mile.

Mr. MANN. May I interrupt you long enough to ask how long those rates have been in force in your territory?

Mr. RYAN. Mr. Hardwick might answer that. They have been in effect since I have been here—four years, or four and one-half years. The Florida rate was 4 cents a mile, and was reduced to 3 cents a mile four years ago, on Christmas—four years from last Christmas. The other rates have been unchanged since I have been with the Seaboard, four and one-half years.

Mr. MANN. You do not know whether they have been in force for a quarter of a century?

Mr. RYAN. My understanding is that they have been in force for a term of something like ten years.

Mr. HARDWICK. Since 1900.

Mr. RYAN. That is six years ago.

Mr. MANN. That is the average rate over the entire line. How long has the three-cent rate been in effect?

Mr. RYAN. That rate has been in effect for a number of years. I do not remember when the rate was reduced, except in Florida, as I remember, when that was reduced four years ago last Christmas.

Mr. ESCH. Do you get more than three cents a mile on any other part of your line?

Mr. RYAN. Only in North Carolina, where we get $3\frac{1}{2}$ cents on the first-class.

At a time when the Atlantic Coast line was the only one between Savannah and Jacksonville, its distance being 172 miles, the rate of \$5.15 was made. Later, when the line now owned by this company was built, and the distance made 128 miles, the rate between Jacksonville and Savannah of \$5.15, as well as the rate of \$5 between Fernandina and Savannah, was adopted by the short line, although the combination of the State rates made less. This was made the subject of complaint before the Interstate Commerce Commission (No. 816, A. L. Artz v. Seaboard Air Line Railway), and, after a hearing before Judge Prouty, it was decided by him, November 29, 1905, in favor of this company.

Mr. MANN. In that case it was held that the through rate might be greater than the sum of the local rates?

Mr. RYAN. Yes.

Mr. MANN. So that it is not invariable, as was suggested here the other day, that they would have to conform in their State rates with the interstate rate?

Mr. RYAN. No; not in this case. Commenting on this case, quoting from the decision, it was stated: "The reasonableness of the passenger fare upon a particular part of the defendants' system must be determined with reference to the system as a whole. The only question which we have to determine is whether the interstate rate is unreasonable, and in this case it has been found it is not."

This was based upon the question of density of traffic.

Mr. MANN. Is that a 3-cent rate?

Mr. RYAN. Which; the \$5.15 rate?

Mr. MANN. Yes.

Mr. RYAN. No; it was made 3 cents a mile on the long mileage. The long mileage was 172 miles, and when the cut-off was built, as there was no sustaining population, no reduction was made in the rate on account of the shorter mileage.

Mr. MANN. Was the old line what was called the old Waycross Line?

Mr. RYAN. Yes. That is the old Plant System, or the Atlantic Coast System. Our line was built as the Florida Central & Peninsular Road, a part of the Southbound Railroad.

With local rates at three cents or a little higher, the average rate of the system for the fiscal year ending June 30, 1906, was 2.382 cents, every lower rate than the local rate having a tendency to lower the average.

There are excursion rates, charity rates, clergy rates, mileage-ticket rates, the meeting of competitive rates, immigration rates, and so forth. Thus it is seen that our average is now nearer 2 cents than 3, and as we are now earning no profit, it is apparent that any reduction must entail a loss.

Last March the legal local rate in Ohio was made 2 cents per mile on all roads. It seems to me that it is not necessary to go any further in determining the effect of the 2-cent rate upon the road earnings. We find, first, that the larger systems operating through large cities have shown increased earnings, and, second, that the weaker lines, not so well favored with population, have shown a decrease. We also find that the increase on the Big Four Railroad in the State of Ohio has been in the same proportion as in the State of Indiana, where there was no reduction.

We also find that while the Big Four in the State of Ohio has increased its earnings, the traction companies paralleling the road have shown decreases in theirs. While at first it might seem that the reduction is a stimulant, at least to the extent of the reduction in the rate, thus making the earnings approximately the same in Ohio and Indiana, it will be seen, however, that the increased business under the 2-cent rate is not all due to the rate reduction, but rather to the fact that it has enabled the steam railroads, by drawing from them, to deprive the electric lines of a large share of traffic; and that is another case where the weak must be made to suffer for the strong.

The lesson in Ohio also teaches that while the railroads going through the large cities have shown increases, partly on account of taking it away from the traction lines, the roads not being so much favored by heavy traffic, have shown decreases in their earnings. A notable case is that of the Cincinnati Northern Railroad, a line running from Cincinnati to Jackson, Michigan, owned by the Big Four, but not like the main line of the Big Four reaching the big cities. The Cincinnati Northern earns about \$1,000 per mile of road a year, while the Big Four earns about seven or eight times as much. The Cincinnati, Hamilton and Dayton Railroad shows the same result, namely, that while its main line earnings between Cincinnati and Toledo have shown increases, the paralleling traction lines have shown decreases, and the business of the Dayton and Ironton Railroad, a branch of the Cincinnati, Hamilton and Dayton Railroad, has practically gone to pieces.

Mr. KENNEDY. I know about that situation in Ohio. The State is practically covered with traction lines. I can get on a street car and ride in my district, and without getting off the street cars I can go clear to Detroit, Mich. I can go all over the country on the traction lines, which all charge under 2 cents a mile. Now I would like to ask you whether or not you do not think the railroads there

have stood in their own light by keeping their own rates up until they forced all these traction lines to be built? Would not the railroads have had practically all the business if they had reduced their rates long ago?

MR. RYAN. About ten years ago Senator Camden bought over the line between Ashland, Ky., and Catlettsburg, Ky., and built a line between Catlettsburg and Huntington, W. Va., making a line 16 miles long, paralleling the Chesapeake and Ohio. Before that shuttle trains ran on the Chesapeake and Ohio, between Ashland and Huntington with a low rate. They were called shuttle trains because they ran back and forth as fast as they could load and unload, and it earned in the neighborhood of \$150 a day, that one train. When the new line (electric) was put in operation the president of the Chesapeake and Ohio said "he would like to meet their rates and continue in the business a year at least, whether he would be able to secure enough revenue to pay for operating the trains or not." He did not want to show that he was whipped at the start. The Chesapeake and Ohio ran the train over a year at a cent a mile rate; 15 cents for the 16 miles between Ashland, Ky., and Huntington, W. Va., and they did not earn \$20 a day. They ran them for a year, and then took them off because they were losing too much money. You cannot always handle the business as against the traction lines on the rate itself for short distances, for the reason that a man at Huntington could get on the traction lines down in the city of Huntington, right in front of a store, and ride ten miles to Catlettsburg and get off in front of his residence.

MR. ADAMSON. Yet do you believe that traction line would ever have been built if the railroad had originally offered that accommodation at a lower rate than it was charging?

MR. RYAN. Suppose the Chesapeake and Ohio had voluntarily, without any competition, put in the rate of 15 cents between Catlettsburg and Huntington?

MR. ADAMSON. If it had prevented the entrance into the field of a successful competitor it would have been good policy; if they put in a 2-cent rate and put in that accommodation to keep down a competitor it seems to me it would have been wise.

MR. RYAN. And confined that to fifteen miles?

MR. ADAMSON. I do not know about that.

MR. RYAN. Suppose they had gone no further; if they had not voluntarily put it in elsewhere they would have been forced to do so by legislation.

MR. ADAMSON. There would be other places where they might have been forced to do the same thing.

MR. RYAN. I know; but suppose they had done so and put it in there, and this action had for the adoption of the rate over the whole system. Where would their earnings have gone to?

MR. KENNEDY. To put their earnings at fifteen cents, that would be a losing price, and it would be suicide.

MR. RYAN. If they had put it at two cents there, it would have gone over the entire Chesapeake and Ohio road.

MR. ADAMSON. I assume that that traction line was built to meet a condition or a demand, and that the railroads had notice that it would be done unless they accommodated their rate to meet the demand. Of

course I would not expect it would voluntarily in a clean place do that without a demand for it or without competition.

Mr. RYAN. I do not see that there was a demand, except when that road was built it was the fashion to build traction lines in that section of the country. They were building them in Ohio and in Indiana and in some places in Kentucky; but not so much in Kentucky, because the laws were not favorable.

Mr. ADAMSON. I know of cases in my own mind where people were bottled up. I know of triangular schemes to reach your lines because of sections which were not traversed by railroads. I did not know but that that was in a similar condition—that those people had that traction line built there in order to escape such conditions.

Mr. RYAN. I never could understand why it was so easy to secure money upon traction bonds at the time that road was built.

Mr. MANN. They are all making money. More men are making money out in my country now by building traction lines than by building railroads, and they are running at a cheap rate which you can not meet.

Mr. RYAN. They can operate them cheaply.

Mr. KENNEDY. Now as to this lesson drawn from Ohio, I suppose it is instructive mainly because of its bearing on the question of whether a reduction of rates would stimulate travel?

Mr. RYAN. Yes.

Mr. KENNEDY. Is it not a fact that we should take into consideration the travel carried by traction lines in order to determine whether it has really stimulated travel?

Mr. RYAN. The travel handled by the traction lines, I believe, is due more to the frequency of trips and to convenience, as I stated, than because of rates.

Mr. KENNEDY. But the railroads, too, are carrying more passengers there than ever before, and they are not carrying nearly one-half of the travel. They are carrying more, themselves, and they are not carrying one-half of the travel in Ohio.

Mr. RYAN. I stated that as I supposed it was the foundation of your proposed reduction in the rates. There has been a tremendous increase of traffic over all the lines. I am not a pessimist, but I do believe the time is coming when you are going to get back to where you were before.

Mr. KENNEDY. Do you not think that that stimulated travel is largely on account of cheap rates?

Mr. RYAN. No; because the railroads—the steam railroads—have had increased travel without any difference in the rates.

Mr. KENNEDY. But not to so great a degree. Look at the travel in Ohio, where they have cheap rates on both the traction lines and the railroads.

Mr. RYAN. Ohio has the population necessary.

Mr. KENNEDY. But they had it before the traction lines and the cheap rates were introduced.

Mr. GAINES. Has the increase of travel in Ohio since the reduction of the rate to 2 cents increased more rapidly than the railroad travel in other similar sections of the country where there has been no reduction of the rate by law?

Mr. RYAN. I have referred to that, particularly with reference to the Big Four. I saw the statement of the figures of the Big Four, and

they struck me as rather a coincidence that the percentage of increase in the passenger rates on the Big Four in Ohio was practically the same as that in Indiana, where there was no change in the rate.

Mr. KENNEDY. On the same road, however?

Mr. RYAN. Yes; on the same road. You could not get a better illustration.

Mr. KENNEDY. The traffic on the Big Four is chiefly through traffic. If they ride more cheaply through Ohio, they will ride into Indiana to get the advantage of the cheap rate.

Mr. RYAN. No; the principal trend of their travel is between Cincinnati and Cleveland. Look at their cities: Cincinnati, Middletown, Dayton, Springfield, and Columbus, all those cities following each other as closely as that and having the large population they have. That is what I am trying to make clear now. It is the density of travel that tells. Take the Big Four Railroad running through those cities. It has shown an increase. Take the Big Four Railroad as shown in the statement of the Cincinnati and Northern. It has shown a decrease. Where they have not density of traffic you can not stimulate traffic. You can not stimulate the traffic in North Carolina going through the sand hills. You have got no one to reach there, and it is the same way to a degree with the Cincinnati Northern.

Mr. ADAMSON. But where the population is, you might make some improvement by yielding to the demand, especially where you are threatened with competition, of which you are just now speaking?

Mr. RYAN. I do not think it is a good thing to have the stimulus given to the railroad by requiring it to operate at a loss in competition with traction lines. The effect of such competition as that is to make the railroad operate at a loss.

Mr. MANN. When you spoke of Ohio I understood you to say there was an actual increase in the passenger business on the Big Four in Ohio?

Mr. RYAN. Yes.

Mr. MANN. Of course that means there has been an increase in the passenger traffic of more than fifty per cent. According to your statement awhile ago I did not know whether or not there was an actual increase of that amount. Now do you think it is proper for the Big Four to charge 2 cents a mile in Ohio, and just across the line, in Indiana and in Illinois, where the population is practically the same and where the cities are just as large, they should charge 3 cents a mile or that they should charge 2 cents a mile locally in Ohio and 3 cents a mile if a man goes across the border line of the State?

Mr. RYAN. I do not think the increase in travel in Ohio has been as great as you state.

Mr. MANN. You stated it has been over fifty per cent.

Mr. RYAN. You said that—

Mr. MANN. No; you stated that. I asked you about that. I mean on the Big Four.

Mr. RYAN. The increase on the Big Four has drawn from the other lines. It has drawn from the traction lines. I do not know whether you are familiar with that line running through the State or not, Mr. Kennedy?

Mr. KENNEDY. No; I am not familiar with it.

Mr. RYAN. The traction lines, before the 2-cent rate was effective in Ohio, had been altogether independent of the railroads. They had

made their rates and handled their business as they saw fit. After the 2-cent rate was adopted by the railroads, they tried to get an agreement as to the rates, because they claimed that where their service is infrequent, as is the case where the population is not dense, they can not do business any better than the steam roads. It is only when they have frequent and convenient service that they can operate profitably at the lower rate.

Mr. MANN. May I ask you one other question along that line?

Mr. RYAN. Yes, sir.

Mr. MANN. As I understand you to say, the case depends somewhat on the density of traffic. As to the relative cost, of course that depends on the density of population. The rate of 3 cents in Ohio has been there, I assume, in the neighborhood of a quarter of a century. The rate in Illinois of 3 cents has been in force as a matter of law for more than thirty years, and the Ohio and Indiana rate followed shortly after that, I think. The population has increased very greatly. Do you think there ought to be some reduction of rates on account of the increase of population and the increase in the density of traffic?

Mr. RYAN. I do not see how you are going to make it fair for all the roads.

Mr. MANN. There has been a great increase in population tributary to all the roads in that section of the country. Do you think there ought to be a corresponding decrease or some decrease in the rate of fare?

Mr. RYAN. Well, I do not know. I am not familiar enough with the condition of the roads in those States to say whether they are getting more than a fair return on their money or not.

Mr. MANN. I asked that question because I understood the basis of your argument to be what a road could afford to carry passengers for depended upon the density of traffic; and if that be the case I wanted to know your judgment in cases where the density of traffic had increased, whether there should be some decrease in the rates.

Mr. RYAN. I think it is very clear that the density of traffic is the foundation upon which earnings are to be built. I believe, too, that there are some roads with traffic sufficient to sustain them at the reduced rate. For instance, I think the New York Central shows that it can live under the 2-cent rate. I think the New York, New Haven and Hartford could live under the 2-cent rate, and the Lake Shore and Michigan Southern and Michigan Central could live under the 2-cent rate. But do you believe that even with that density of traffic new capital will be found to go into territory at all competitive with those lines with the hope of earning anything out of it when they may be far enough away to just escape the large places served by these strong roads.

Mr. MANN. Do you know how long the New York Central has by law had a 2-cent rate?

Mr. RYAN. I know of one thing, that the New York Central has something that no other railroad ever did have in the world. The New York Central had a developed territory turned over to it. We did not. When a man tried to plant grapes and tried to grow vegetables in the sands of North Carolina 25 years ago, they said he was crazy. We had a desert. We did not have a great canal bed to build our railroad on, and we did not have big cities on our line such as the New York Central received as a gift.

Mr. MANN. Don't you have larger cities on your line now than the New York Central had at the time it accepted its charter? I think if you make the comparison, you will find that you are mistaken about that.

Mr. RYAN. I have not made any comparison.

Mr. KENNEDY. In our country under existing conditions we have a peculiar situation. If an individual should apply for a ticket in Sharon—that is a little town on the eastern line of our State, and the Ohio State line is the western corporation line of the village of Sharon—if he should buy a ticket there to Columbus, they would charge him 3 cents, and he would ride a quarter of a mile in Pennsylvania and the rest of that distance in Ohio.

Mr. RYAN. I think they have changed that.

Mr. KENNEDY. The practice of the railroads has been that way. Coming from a convention not long since with a number of other parties, they all laughed at me for not getting a ticket from Rochester to my home. I said, "I will pay on the train." I paid at the first town inside the Ohio line, and when I got home—the distance was only about 13 miles in Ohio—I got home for fifteen cents less than the other members of the party paid for their tickets. Now how can practices of that kind be corrected so that the companies will not do things of that kind?

Mr. RYAN. I understand that has been corrected. Is not that true, Mr. Hardwick?

Mr. HARDWICK. I think Mr. Kennedy alludes to the fact that a higher rate prevailed in an adjoining State.

Mr. MANN. It has just been changed, as I understand it.

Mr. KENNEDY. They can charge the straight rate in Pennsylvania.

Mr. ADAMSON. They will not allow the through rate to be more than the sum of the local rates.

Mr. MANN. They have changed that lately.

Mr. BURKE. Was not that on the theory that they would contest the 2-cent rate?

Mr. KENNEDY. No. After they had amended the 2-cent rate they said they were making more money on it, and they kept up that price, so that they practically put a penalty on a man if he bought a ticket in Indiana or Pennsylvania into Ohio.

Mr. RYAN. Another illustration in Ohio, particularly interesting to me, is that afforded by the Ohio Central lines, running from Toledo to Columbus and the Ohio River. The 2-cent rate has enabled this line to take some of the business from the traction lines running down in the oil fields, but this has not been sufficient to overcome the losses in the territory south of Columbus, where the population is not so dense. But what is true of these lines referred to, in the State of Ohio, is also true of all the lines in that State, namely—that the roads have not suffered where the population has been great, but they have suffered where the population has been small.

Thus it will be seen, looking at the question from whatever point of view we may, we must invariably find that the only reasonable basis of a rate exists in the density of population, which means the density of traffic. Unless this is fully recognized by legislation it will not only mean that the weak lines will suffer for the strong, but it will also mean a great blow to development, for there is nothing more timid

than capital, and investment will not be made where there are no definite promises of reward.

I can not, gentlemen, make my point too strong for your consideration, and that is that some help, no matter what a population in a zone may be as a whole—some help should be given to the line that is new and undeveloped and losing money and trying to take care of itself and preserve itself and develop its territory. I know that we are not doing it.

The CHAIRMAN. Have you any plan that you can suggest whereby the rate might be diminished—by law, I mean—where there is great density of population, and still be permitted to obtain at the present standard in the less populous territories? Have you some plan to suggest on that line? Your argument apparently has been against any change at all.

Mr. RYAN. Any change to affect us.

The CHAIRMAN. Simply because there are certain localities in which roads are located that could not bear this change or reduction, your whole argument is against anything that looks like uniformity of action.

Mr. RYAN. That is just the reason why I can not suggest anything that would mean a lower rate that would affect us.

The CHAIRMAN. Then, according to your argument, there must be no advance or progress in the lowering of rates throughout this country, simply because there is here and there a road that can not stand the reduction and be prosperous?

Mr. ADAMSON. In connection with the President's suggestion—

The CHAIRMAN. Have you any plan to suggest?

Mr. RYAN. I have not any plan that would protect the weak lines. I have not any plan that would encourage a new line to enter a field.

The CHAIRMAN. That is the great difficulty thus far in this discussion. You gentlemen have contented yourselves with assailing everything that has been suggested, without aiding us in any way by your superior knowledge toward the adoption of a plan that will work in a densely populated region and that will still give protection to your weak lines.

Mr. RYAN. Well, Mr. Chairman, I do not see how I can be of any assistance to you in proposing a plan which to me would seem to kill all of our hopes for the future.

The CHAIRMAN. Your idea is that of the graded school, that regulates the progress of every scholar by the stupidity and incapacity of the inferior scholar in the class?

Mr. RYAN. Well, I do not know that it is exactly that. I do not believe that it is your desire to continue to strengthen the lines that are already strong and to injure the lines that are now weak, and to prevent new lines from entering the field of the strong lines, because I think that is what this legislation would do.

The CHAIRMAN. That is the plan of nonaction. Nonaction strengthens the strong lines. It does not necessarily interfere with the progress and the maintenance of the weak ones; but if nothing is done the strong lines will grow stronger, because they charge these higher rates, and it does not benefit your lines in the sense of competitors. It harms yours in the sense of a competitor.

Mr. RYAN. It may be that the strong lines will continue to grow strong, which ever way you handle the rate question, because if you

impair our ability to take care of ourselves, the strong lines will get us. There is not any question about that.

Mr. ADAMSON. Mr. Ryan, I have long recognized the difficulties of which you speak, that long lines of young railroad running through the Southwest and South, through sparsely settled territory, on single tracks, are depended upon by that country to develop it, and that those lines of road labor under difficulties which, of course, are not experienced by these older and stronger lines in more populous territory; and yet there are sections even in that Southwest where conditions exist which call for improvement, either voluntarily by the railroads or by the coercion of law, if necessary.

Now, when you come in and defend all lines of railroad against a reduction of rates, instead of defending only those which could not sustain a reduction, does it not look as though you were not disposed to do anything in the way of an improvement of conditions? I am in that part of the country and I appreciate the conditions that prevail, and I have been conservative and slow to consent to any legislation by Congress that would cripple you, because I believe it would cripple my country. I have insisted upon that here and upon the floor of the House many times. But I believe, with the Chairman, that it would be better for you if you can conceive some graduated scale or plan by which justice may be done to the people who are now receiving injustice, and at the same time avoid inflicting damage upon the people who are developing the country and assisting you in your efforts to build up your line.

Mr. RYAN. Somebody else than myself will have to speak of that. With the Atlantic Coast Line and the Piedmont Air Line on either side of us, how could we do that?

Mr. KENNEDY. This committee might conceive that neither you nor your competing lines were charging too much.

Mr. RYAN. I do not believe that it is necessary for you to go back of the returns of any of the railroads of the South to-day. I do not think any of the railroads in the South to-day are earning more than you or any other reasonable body of men would say they are entitled to earn, and I think they are all in a pretty bad way, so far as earnings are concerned, even the best of them; even the Atlantic Coast Line and other old established roads. I think their net earnings have gone all to pieces.

Mr. KENNEDY. I want to refer again to the situation in Ohio. The roads you speak of as being in a thickly settled portion of Ohio are the only railroads in Ohio that have competition from the traction lines. The lines you speak of whose earnings are not increased are the roads in the southern part of the State where there are no traction lines.

Mr. RYAN. They have not the population.

The CHAIRMAN. Let me, in this connection, or in connection with the query that I put to you, remind you that all gentlemen who have appeared before this committee, when we have been discussing rate legislation, have urged that the Interstate Commerce Commission be not given the initiative in the establishment of rates. All the corporations have objected to that, and nothing of that kind has been done. But when we then attempt legislation that must be uniform in its character you inveigh against that because of its inequalities of operation. Now the Congress must either act in this matter of establishing a rate that would be uniform, or the Interstate Commerce Com-

mission or some other tribunal must be given the power so that they can differentiate between the different roads, the strong and the weak, unless you gentlemen can help us to some solution of the matter. You are the men who, above all others, are familiar with the subject and should know, if anybody knows, what can be done, so that justice can be done to the weak line as well as to the strong line. But you content yourselves invariably with inveighing against whatever is proposed, and up to this time, so far as I have been a member of the committee, and so far as I can recall, no one of you has ever made a suggestion in the way of a solution of the difficulty. Now I think that is scarcely fair.

Mr. RYAN. Mr. Chairman, I hope I misunderstood you, because I think it is wrong to assume positively and absolutely that a rate reduction is necessary, that it must come, whether by your legislative body or through the Interstate Commerce Commission. There is a very small territory now, I believe, that could stand a lower rate than now exists. I do not believe a rate reduction should be looked for by you, or by the Interstate Commerce Commission, or by the people, or by any one in the territory served by the Seaboard Air Line. I do not think it should be in any part of the South. I do not think that the travel justifies it; and the gentleman [Mr. Adamson] who spoke of his familiarity with the conditions along the Seaboard will bear me out in this, that if we have a reduction in our rates and we have to economize, we can not economize in the character of our trains, and we can not economize in our wages. We are bound by the labor unions, by organized labor bodies, to pay a certain amount to our men. The only way we can economize is by lessening the number of trains on our schedule and by cutting the expenses down in that way.

Now, I have always maintained that in a new country—a new railroad country—such as that served by the Seaboard, what the people need more than anything else is service, and we have been following that line. Four years ago, when I came to the Seaboard, the trains were earning about 60 cents a mile from passenger business. Mr. Barr, the general manager of the road at that time, was not an optimist on the passenger business. He did not think there was any money in it for the railroad, and he was in favor of cutting the service down. I told him he should not cut it down, but should make the existing trains earn more, so that there would be no loss for the road; and we have done that, and just as soon as our trains begin paying the cost of operation, not counting the share of taxes which they should contribute, and which should be included—when the trains earn about \$1 a mile—we put in another train in that field, some of the new trains paying only 50 cents per mile.

Now, I think we are doing our part by the people, and I think the people appreciate it; and I think in other sections also the people would rather have that additional train service than have a reduction in the rate, which undoubtedly amounts to very little to the individual. The individual gets but a small return from it, say 15 or 20 cents to the individual on a short trip, and it does not therefore cut a great deal of figure; but with the railroad, where that accumulates, it amounts to enough to cripple the railroad.

Mr. MANN. Mr. Ryan, can you tell us what increase there has been in the passenger traffic on your road, or the lines which compose it, in the last twenty years?

Mr. RYAN. As I stated before, the Seaboard is not that old.

Mr. MANN. I said "the lines which compose it." Some of the lines were constructed before, I understand?

Mr. RYAN. It was not completed as a system fifteen years ago.

Mr. MANN. The rate, then, per mile per train was what?

Mr. RYAN. I can not go back beyond four years.

The CHAIRMAN. Mr. Ryan, what would be a compensating rate for the carriage of passengers on your road?

Mr. RYAN. I beg your pardon, Mr. Chairman; that would depend on the number of passengers.

The CHAIRMAN. I mean as it is now.

Mr. RYAN. As it is now, to make us come out even and give us compensation, it would be $3\frac{1}{2}$ cents a mile.

The CHAIRMAN. Now, if $3\frac{1}{2}$ cents in your territory, on your road, would be a fair compensatory rate, taking into account the density of population, which you have made so important a point, what would you say to the fairness of a $2\frac{1}{2}$ -cent rate on the Pennsylvania Railroad, for example, east of Pittsburg, taking into consideration its density of population?

Mr. RYAN. I think the Pennsylvania Railroad would be getting too much by comparison. I do not know, but we would barely pay expenses at $3\frac{1}{2}$ cents at our present business.

The CHAIRMAN. You ought to be fair with us and enlighten us. What would you say about the comparative justice of these two rates— $3\frac{1}{2}$ cents and $2\frac{1}{2}$ cents?

Mr. RYAN. It would be a difficult matter to explain to you. The Pennsylvania Railroad earned, according to the last statement I saw, \$1.10 per train in their passenger business. It showed that the Pennsylvania Railroad, with all its immense travel and density of population, gives the people so much service that they do not earn much more than the cost of operating the trains. Now, if you compare that with ours, you would have, in my opinion, to reduce the number of trains. You could not do that. It is simply impossible. The conditions are so entirely different, the demands on the railroad are so entirely different, that you must take everything into consideration.

Mr. MANN. You have spoken several times about your road running through "a new country." It seems like a queer expression to a gentleman who was born seventy-five years after the State of North Carolina was admitted into the Union. What do you mean by the "new country" covered by the Seaboard Air Line?

Mr. RYAN. In a transportation sense it is new.

Mr. MANN. Is not that because of the fact that the railroads of the South have prevented the development of the South largely through excessive rates?

Mr. RYAN. I do not know. I think the South has—

Mr. MANN. Is it not true that the lines in the Western States, like Ohio and Indiana and Illinois and Wisconsin, have been developed for many years more than those roads have been developed in the South?

Mr. RYAN. I do not think that is the right way of looking at it.

Mr. ADAMSON. It is only in the last fifteen years that a through line was discovered through the South. I remember, before the Piedmont Air Line was established, that you had to go down to Tennessee,

through Knoxville and Chattanooga, to get to Georgia, making a detour around North Carolina.

Mr. RYAN. I do not know how long the Piedmont Air Line has been established. I think it was established about 1881 or 1882.

Mr. ADAMSON. I think it was established about 1882.

The CHAIRMAN. The hour for adjournment has arrived. Are you through, Mr. Ryan?

Mr. RYAN. I am; yes, sir; unless you want to ask me some more questions.

The CHAIRMAN. No, I think not. The committee will then stand adjourned.

[Thereupon, at 12 o'clock noon, the committee adjourned.]

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Wednesday, January 23, 1907.

The committee met at 10.30 o'clock a. m.

Present: Representatives Sherman, (acting chairman), Wanger, Stevens, Esch, Townsend, Gaines, Kennedy, Adamson, Ryan, Richardson, and Bartlett.

Present, also, L. E. Payson, esq., Hillary A. Herbert, esq., S. H. Hardwick, esq., and others.

**STATEMENT OF S. H. HARDWICK, ESQ., PASSENGER TRAFFIC
MANAGER, SOUTHERN RAILWAY.**

Mr. HARDWICK. Mr. Chairman and gentlemen of the Committee: While I shall hold myself obedient to the wishes of the Committee, and endeavor to answer such questions as may be asked as best I can at any time, yet, as I have had the privilege of being at all of these hearings, I have thought it might be more agreeable to the Committee to let me read the memorandum which I have prepared, because in that I have tried to cover some of the points, or most of the points, or all that I could remember, that needed or seemed to me to need to be alluded to in the memorandum. And by the presentation of the matter in this way I think the Committee will possibly be saved time, and may perhaps get a better understanding of the continuity of the thought which I wish to present in this way. But, as stated, I shall at any time be glad to answer any questions which the Committee may wish to ask the best that I can.

Mr. ESCH. Mr. Hardwick, will you give your office and the road you represent, for the record, please?

Mr. HARDWICK. Yes, sir; I am passenger traffic manager of the Southern Railway.

The tremendous importance of the propositions as presented in bills H. R. 20153, H. R. 21572, and H. R. 22133 is simply incalculable.

They present at once innovations not heretofore considered by any passenger traffic official. If either of these measures were to become effective it would revolutionize the passenger traffic, the bases of rate adjustments, and the methods of conduct of the passenger traffic of this country.

What are the demands and what are the benefits of these measures? That side of these propositions has not been presented, although at the beginning of these hearings the chairman first invited anyone present who desired to be heard in favor of these measures to proceed, and no answer was made, and no one seemed to be present desiring to be heard in favor of these bills or either of them. So that while we have not had the benefit of hearing any reasons presented why such proposed measures should be enacted by Congress, we are, therefore, at a loss to know what is really to be said in favor of these measures; but we have been made acquainted with many forceful and cogent arguments in opposition to all of them.

While the same generic idea seems to run through these several measures, that idea is expressed diversely mainly in three forms:

First. In H. R. 20153 a national interchangeable mileage ticket, at the uniform rate of 2 cents per mile, is required to be unlimited as to time of use or redemption.

Second. H. R. 22133 requires that, in addition to mileage coupons for interstate passenger traffic, tickets shall also be sold at the uniform rate of 2 cents per mile.

This seems to fix the maximum rate for interstate trip tickets, as well as for mileage tickets. This measure thus specifying that the uniform rate for tickets shall be 2 cents per mile does not leave it optional with the carrier to make any reduction from the 2 cents because it plainly states the uniform rate shall be 2 cents.

It is further specified that such tickets and mileage coupons shall be good in the hands of any holder and shall be unlimited as to time of use or redemption.

The specification of this rate for tickets to be uniform at 2 cents per mile would make it impossible for the carrier to make a rate for any purpose either higher or lower than 2 cents if the rate is to be uniform.

Third. H. R. 21572 not only specifies 2 cents per mile as the maximum rate for interstate passenger fares, for tickets, or mileage books, which it says shall be the duty of every railway company to keep constantly on hand at its offices and stations, then says when, by reason of failure to do so a passenger shall be unable to purchase a ticket, the cash fare collected shall not exceed 2 cents per mile. There is no specification here how far that 2 cents per mile, presumably thus paid upon the train, shall run; that is, whether or not for such reasons a passenger boarding a train at New York shall be unable to purchase a ticket or mileage book shall pay his way through on the train to New Orleans or to San Francisco, and if so, how would it be possible for the conductor in charge of the train to collect the proper through rate? The same would be true if a passenger were to board the train at some intermediate local station or at some distant point desiring to go to New York. I merely point this out to express the impracticability of such a measure.

Furthermore, H. R. 21572 provides that when a passenger desires to buy a mileage ticket, which ticket must be kept on sale at all stations, to be good upon any railroad engaged in interstate commerce, the railroads on which these mileage tickets are to be good shall be specified therein. The author of this bill has stated in these hearings that this was intended to mean that any passenger desiring to purchase a mileage ticket which shall be good for any interstate journey, may

appear at any station in the United States and ask any ticket agent to supply him with a mileage ticket good over any number of railroads which he, the intending purchaser, may specify. Understanding there are in round numbers 950 railroads in the United States, it will be seen how impracticable such a law would be if several passengers, or I may say even one passenger, were to apply to a ticket agent at a small station only a short time before the train came along (and I beg leave here to remind the committee that the State laws generally require that the ticket offices shall be open not more than half an hour before the departure of a train)—how could such a ticket agent at such a station undertake to fill in a mileage book with the names of any large number of railroads in the United States? The congestion and delays would be manifestly greater at larger centers where there are a larger number of passengers to have their mileage books thus filled in.

The arguments made by the gentlemen who have preceded me have pointed out the impracticability of any national interchangeable mileage ticket arrangement whereby unwilling copartnership in the matter of credit and of one road expending its cash for the redemption of some more or less uncertain coupons or strips of paper which shall purport to be issued as interchangeable mileage by some insignificant and unknown railroad located somewhere in some remote part of this country merely because such a road shall come under the terms of these measures; that is, shall be engaged in interstate traffic.

The genuineness of such coupons or strips of paper thus purporting to be actual mileage issued under the terms of these measures could never be ascertained, and yet thousands of dollars in value could be demanded and collected of the solvent railroads throughout all this country; and later on, if it were found that this was entirely a counterfeit issue or fraudulent transaction, the road which had paid the money for the redemption would simply have to pocket its loss, for presumably it is not meant that Congress shall underwrite these transactions and guarantee the revenue protection of every carrier which has performed its service in good faith, and that the Government of the United States shall undertake by these measures to save such carriers harmless against such frauds and money losses.

No period of time is set for the limitation of the validity or the redemption of such mileage tickets, and no provision is made for the roads actually honoring such mileage to obtain their money, because any railroad selling these tickets to-day might pass into bankruptcy to-morrow, and yet the mileage actually issued would under the terms of these measures be obliged to be honored in any of the years to come whenever they were presented to any of the railroads in the United States engaged in interstate traffic.

No railroad could ever know what credits or debits it had actually outstanding, because it could never know when its own mileage would actually be honored, nor when it would be called upon to honor the mileage of some other railroad, which corporation might have previously passed out of existence.

On its face the proposition is to furnish mileage in the denomination of 1,000 miles, and yet there is no requirement that 1,000 miles shall be used, but the redemption feature says that these tickets shall be redeemed at any office of any railroad company whenever presented. So that a passenger need only travel 1 mile, or 50 miles, or 100 miles, and thus get the benefit of the flat 2-cent rate, which rate itself, thus

obtained, would be a discrimination and a violation of the terms of the interstate commerce law if in conflict with the tariffs which the road thus honoring this mileage had on file with the Interstate Commerce Commission and which tariffs it was bound to observe in this particular case.

Such proposed interstate mileage ticket would of itself also present many other conflicts and much confusion. For example, such a ticket sold in New York would be good for a trip to Trenton, N. J., but would not be good from Trenton back to Jersey City. It would also be good from New York to Greenwich, Conn., but would not be good from Greenwich to Stamford, Conn. Neither would it be good from New York City to Albany. It would be good from St. Louis to any Illinois point across the river, but would not be good from St. Louis to any point in the State of Missouri. It would be good from Chicago to any Indiana point, but would not be good from Chicago to any point in the State of Illinois. It would be good from Chattanooga, Tenn., to Dalton, Ga., but would not be good from Chattanooga to Knoxville, etc. It would be good from Columbus, Ga., to any point across the river in Alabama, but would not be good from Columbus to Atlanta, nor any other point in Georgia. It would be good from Augusta, Ga., to any point across the river in South Carolina, but would not be good to Savannah, Atlanta, nor any other point in Georgia. And so we might go on multiplying many hundreds of points where such conflict and confusion would prevail.

Hence, it has never occurred to any passenger man to hitherto consider seriously any such innovations in the matter of mileage ticket, and frankly stated, I do not believe that anyone, certainly any passenger man, could satisfactorily explain such apparently indefensible conditions to his patrons.

Many other impracticable and defective features of the proposed national interchangeable mileage ticket could be pointed out, but we must move along to consider the actual effect of all this proposed legislation now under consideration before this committee.

The next point seems that of proposing to establish a uniform maximum passenger rate for interstate fares all over this great country.

Manifestly if such reduction of rate as must follow the readjustment of nearly all interstate rates in this country were considered to be profitable they would be promptly adopted, or I may say, with all due respect, would have been adopted long since by the passenger men of this country, and we would not now need to be in court before this honorable body to make objections to these propositions.

Mr. ADAMSON. Major, does it bother you to be interrupted?

Mr. HARDWICK. Not at all, sir. I said that I would prefer to finish this statement, because I think that I have covered the various points; but I shall be very glad to answer any questions that I can.

Mr. ADAMSON. I want to ask you just one question, for fear I will forget it. When you have these voluntary interchangeable mileage books, which you do have—and I see you are fixing up a new system now in the South.

Mr. HARDWICK. Yes, sir.

Mr. ADAMSON (continuing). When any road sells one of those books, there is no account made, or any attempt at settlement, until the coupons are taken out and turned in to the roads, and the various

roads send them in to the selling road. Then you take them up and account for them?

Mr. HARDWICK. That is right; yes, sir.

Mr. ADAMSON. I just wanted to know your system of handling those books.

Mr. TOWNSEND. Will you cover, before you get through, the proposition that they shall sell a thousand-mile book for \$20, for instance, instead of \$25 or \$30, and then redeem the cover?

Mr. HARDWICK. I have not alluded to that particular method of ticketing, because, speaking just for myself, I do not believe in it. I believe in selling your transportation at the flat rate which is to be used. Some railroads believe, when they make a concession voluntarily to the public, that they have a right to make a reasonable regulation; and they consider that reasonable. But for myself, I say I have never engaged in that, nor do I believe in it.

Mr. TOWNSEND. Do you not think that is one of the most serious objections to the railroad practices in the past?

Mr. HARDWICK. I think that point has been raised, yes, sir; but in the South, I should say, Mr. Townsend, that we are eminently old fashioned, and we are very conservative. We are honoring now the same form of mileage book that we began to honor over forty years ago, and we have never had any complaint of it in any way, shape, or form whatsoever.

Mr. BARTLETT. So long as you have been interrupted, I would like to ask this question: I understand—I do not know that it is the fact—that the Southern Railroad and the Central Railroad of Georgia and the Atlantic Coast Line and the Seaboard Air Line have all made arrangements already, so far as Georgia is concerned, to have interchangeable mileage books.

Mr. HARDWICK. Nearly all of the roads in the South have now, beginning day before yesterday, an interchangeable arrangement on a basis of 2½ cents on a 1,000-mile ticket.

Mr. BARTLETT. I was informed of that by the agent of the Georgia Railroad when I came up here.

Mr. HARDWICK. At Macon, Ga.?

Mr. BARTLETT. At Macon, Ga.; and I was shown the mileage ticket by him and also by the agent of the Southern Railroad, and it was one that was interchangeable on almost any road I wanted to come to Washington on, or any road I wanted to ride on in Georgia, after I got back from Washington, if I had not used it up.

Mr. HARDWICK. Now, since the Southern Railway mileage has been united with that, it practically covers all that might be needed.

Mr. BARTLETT. One word in reference to your redemption of the unused part. Do you do that, Mr. Hardwick?

Mr. HARDWICK. At the present time our method of redemption—and I would like the committee to hear this—is that we sell a mileage ticket for \$25, and that presupposes 1,000 miles of travel; that the passenger is to do something on his part to get that reduction; and the proposition in the first place from the railroad is that he shall use 1,000 miles. If he fails to do that within a year (which is an ample and liberal allowance), then if he wants that redeemed, we deduct from the unused mileage the actual tariff value of the mileage which has been used, and we give him the difference. But we do not redeem it

at its face value of 2½ cents because for reasons of his own, whatever they may be, he has not carried out his part of the agreement.

Mr. BARTLETT. The reason I asked that question was that I got some information from Mr. Brown, upon inquiry, on that point.

Mr. HARDWICK. Yes, sir; that is correct.

Mr. BARTLETT. Now, one more question; and I will not ask any more. Take the instance quoted as a matter of regulation: What objection would you have, or what objection is there, to issuing one mileage ticket to be used by, say, a man and his wife? I understand that can not be done now. Why? What objection would there be to that?

Mr. HARDWICK. My own idea of that, Mr. Chairman and gentlemen, is that unless you have the privilege on the part of the carrier to make some conditions on the part of the purchaser which shall be reasonable, unless you shall stipulate in that book who these parties are, then you will necessarily establish a flat rate. If it applies to more than 1 person, then why not to 10? and if to 10, why not to 100? and then why not to anybody? So we have thought, when we made this great reduction from our tariffs, that we would have a right to expect that the passenger would use that mileage himself.

Mr. BARTLETT. But is it not a fact—I am not indicating that I have any bent upon the subject, but merely asking for information—is it not a fact that previous to this time, some years ago, there were 1,000-mile tickets issued to, say, business houses which were used by their traveling men, not confined to the particular traveling man that used the top of the book at the time it was issued? In other words, take the case of Waxelbaum & Co. and others in Macon.

Mr. HARDWICK. Not by us, sir. We have always dealt with each man individually, when he tried to make a contract with us to obtain some concession in the way of reduction on our rates.

Mr. BARTLETT. I am not confining it to the Southern Railroad. Do you not know, or do you know, that that has been done?

Mr. HARDWICK. I do not, sir.

Mr. ADAMSON. If you sold a 1,000-mile book, and the passenger lacked 300 miles of using it up when it expired, you would give him credit for that 300 miles on a new book, I suppose?

Mr. HARDWICK. No, sir; we always give him his money back. We make him a voucher, and that is a very large part of our office work here. A considerable part of it consists of our redemptions, which I want to say is not well understood by the public.

Mr. ADAMSON. You do not renew the remainder and let him use it the next year?

Mr. HARDWICK. We have always redeemed all unused tickets or unused portions of tickets. We have always dealt with the public exactly on the square. We have never wanted to obtain one penny or retain one penny that was not ours. But we redeem this mileage outright and give that man his money; he buys a new ticket under the conditions, and then goes ahead. He is not out any money at all; but we just prefer to make it a clean-cut transaction.

Mr. BARTLETT. Not to interrupt you—pardon me—you say you redeem it. As I understand it, if he uses 700 miles before the expiration of the time of the ticket, you calculate 700 miles at the 3-cent rate?

Mr. HARDWICK. Yes, sir.

Mr. BARTLETT. That is the way you redeem it?

Mr. HARDWICK. That would amount to \$21, and he would then get the difference between \$21 and the \$25 that he paid for it—\$4.

Mr. ADAMSON. He would get back $1\frac{1}{2}$ cents a mile.

Mr. HARDWICK. He would get back all, of course, that he was entitled to. He would get the benefit of that which he had agreed to.

The ACTING CHAIRMAN. In other words, he would be nothing out because of having purchased the ticket?

Mr. HARDWICK. No, sir; and I would like to say that a limitation of a year on a mileage ticket good on so large a system as the Southern Railway, 7,500 miles, for example, is not an unreasonable proposition. We sell him that ticket to get him to travel the 1,000 miles over our road.

Mr. WANGER. How about the 300 miles redeemed? Do you redeem that at 3 cents or $2\frac{1}{2}$?

Mr. HARDWICK. For the used mileage, sir, we charge him 3 cents.

Mr. WANGER. Oh, I see.

Mr. KENNEDY. He does not lose at all; he simply neither makes nor loses by the transaction?

Mr. HARDWICK. No, sir; he does not stand to gain anything until he has used the 1,000 miles, the \$25 worth of mileage.

Mr. WANGER. You have the use of his \$25 during the length of time he has paid it in advance.

The ACTING CHAIRMAN. If he used 900 miles and did not use the other 100, he would be \$2 ahead.

Mr. BARTLETT. Do you sell a man a straight ticket, say, from points in Georgia to New York?

Mr. HARDWICK. No, sir; we limit all transportation we sell. I think every obligation of every railroad company must necessarily be limited.

Mr. BARTLETT. I do not know whether you can do that or not if he pays full fare.

Mr. WANGER. Is this mileage interchangeable between the Southern, the Atlantic Coast Line, and the Seaboard Air Line?

Mr. HARDWICK. Yes, sir. It only began in the larger sense day before yesterday. The Southern Railway established the interchangeable mileage in the southeast many years ago, but it has always, until a few days ago, confined it to its own system and the auxiliary systems, which made it good for about ten to twelve thousand miles. We have now gone in with all the other railroads in the southeast which have engaged with us in this, and now it is good for, roughly speaking, 25,000 miles.

Mr. BARTLETT. But, Mr. Hardwick, you do not mean to say that simply a few days ago you did that as to Georgia, or that this has been interstate—

Mr. HARDWICK. Everywhere; yes, sir.

Mr. BARTLETT. But before this you have had—I will not say in any other State—but before this you have had in Georgia for probably six or eight or ten months interchangeable tickets good in Georgia?

Mr. HARDWICK. Only, sir, with the affiliated lines of the Southern Railway. We did not interchange, for instance, with the Georgia Railroad.

Mr. BARTLETT. You did with the Georgia Southern and Florida and the Central?

Mr. HARDWICK. We did with those; yes.

Mr. BARTLETT. They cover pretty nearly the whole South?

Mr. KENNEDY. Mr. Hardwick, suppose a mileage ticket should be sold by one of the roads making up this system, and 200 miles of that mileage should be ridden out on that road and, say, 500 miles ridden out on the other roads of the system, and then the book should be brought back and redeemed by the road in Washington?

Mr. HARDWICK. Yes, sir.

Mr. KENNEDY. Would it make a profit or get a rebate from the other roads?

Mr. HARDWICK. No, sir.

Mr. KENNEDY. How would that be adjusted?

Mr. HARDWICK. We do not make any profit.

Mr. KENNEDY. Where would the money go in the redeeming, when the auditor's office settled that transaction?

Mr. HARDWICK. It would be apportioned to the roads which had used the mileage.

Mr. BARTLETT. To the roads taking it up, you mean?

Mr. HARDWICK. Yes.

Mr. KENNEDY. Would they be paid full 3 cents a mile for the mileage which they had taken up?

Mr. HARDWICK. Yes, sir; which they had used.

Mr. ESCH. Do you sell more than a 1,000-mile ticket?

Mr. HARDWICK. We have a 2,000-mile ticket; yes, sir.

Mr. ESCH. Do you run up to 5,000?

Mr. HARDWICK. No, sir; 2,000 is the highest.

Mr. ESCH. Do you sell a 2,000-mile ticket at the same rate that you sell a 1,000-mile ticket?

Mr. HARDWICK. Yes, sir.

Mr. ESCH. Two and a half cents a mile?

Mr. HARDWICK. Yes, sir; \$50. I would like to say that in my experience of more than twenty-five years as a passenger man connected with our system the sale of 2,000-mile tickets has been so small that it is utterly insignificant. No demand is ever made for more than a 1,000-mile ticket.

Mr. ESCH. There would not be any purpose in doing that?

Mr. HARDWICK. No, sir.

Mr. ESCH. It would simply tie up their money?

Mr. HARDWICK. Except the convenience of having a mileage book; but, as a matter of fact, they do not do that.

Mr. ESCH. Do you think that if you made it $2\frac{1}{2}$ cents that would largely increase the sales of the 2,000-mile book?

Mr. HARDWICK. No, sir. We think that the concession is just as great as the carriers can reasonably make at $2\frac{1}{2}$ cents.

Mr. ESCH. I did not know but what the increased traffic resulting from a quarter of a cent reduction on a 2,000-mile ticket would be enough to make good—

Mr. HARDWICK. No, sir; I will come to that a little later.

Mr. ESCH. All right; excuse me.

Mr. BARTLETT. May I ask you one more question? Take, for instance, the rate from Macon to New York—\$25. There would be no inducement for a man to buy a 1,000-mile ticket from Macon and Atlanta in the matter of saving any money, would there? It would be about the same.

Mr. HARDWICK. Not very much; and I want to say right there, on that point, that most of the long-line interstate fares of this country

are on a basis of between 2 and 2½ cents. That comes about for various reasons, which I may allude to.

The maximum rate, of course, can never in the nature of passenger traffic be the average rate, nor, indeed, can it, save in very rare instances, or for very small volume of traffic, be the actual rate obtained by any of the carriers. Competition is the first cause of this.

Nothing has contributed more to the advancement of the development or the prosperity of this country than the constant watchfulness and adjustment of rates of passenger fares as made by the carriers from the beginning of the existence of the carriers on down to the present day.

The density of population is, as you gentlemen have witnessed, the principal controlling factor of these rate adjustments, and you have seen how, as steadily as this density of population increased, the bases of rate adjustment of passenger traffic are lowered.

Beginning in New England, where the population first began to be the more dense, the reduction of passenger fares was first begun. Then observe how, as the center of population has moved westward, on even lines these passenger-rate adjustments have followed that density of population, so that now you find systems of interchangeable mileage arrangements extending, say, from New England to the Missouri River, on the basis of 2 cents per mile net.

You also see the regular rate, or what is known to the railroad men as the flat rate, per mile throughout this entire stretch of country from the East to the West is gradually being adjusted on a lower basis as the density of population increases and the patronage thus yielded from that population will justify a commensurate return for the service provided by the railroads in that section of the country.

We have yet to know—and I challenge at this point any refutation of the statement—I say we have yet to know a single meritorious case wherein an appropriate request for a meritorious occasion for the reduction of passenger fares has ever been made to any railroad in this country wherein the public was to be benefited, and the railroads have declined on such special occasion to make such reduction.

MR. TOWNSEND. May I call your attention right there, Mr. Hardwick, to the case of the Michigan Central Railroad in Michigan? Are you familiar with that?

MR. HARDWICK. Fairly well, sir.

MR. TOWNSEND. You will recall that under the charter which was granted the Michigan Central Railroad Company they had the right to charge 3 cents a mile?

MR. HARDWICK. Yes, sir.

MR. TOWNSEND. The charter contained the provision that the legislature should have the right to repeal that charter at any time, and that the railroad should have the right to go into the courts and establish by proof what damages it had sustained by reason of such reduction. That was a special charter, not like the charters of the other roads of Michigan where there was a provision that when their earnings reached a certain amount they should be placed on the 2-cent basis. This road stood by itself in this charter. The legislature of 1900 exercised its privilege under the charter of repealing it and compelling the railroads to carry passengers at 2 cents a mile. The railroads had resisted for a long while the appeals of the officers of the State there to reduce their rate to 2 cents. It was reduced in 1900 by

law. The railroads brought suit under the provisions of the charter for \$6,000,000. The suit has not yet been determined; but being somewhat familiar with it, I think I am stating within the record when I say that they do not hope to establish the fact that they have sustained any loss directly from a reduction of the rate because their earnings jumped to an enormous amount immediately thereafter, and that notwithstanding the fact that the road from Detroit to Chicago was paralleled with electric roads almost immediately. They do base it largely upon the fact that the system of taxation which existed at the time the charter was granted was different from what it was when the repeal was made, and they are alleging damages on that.

I speak of this because you say that no case has been brought to your attention where the railroad has resisted what seemed to be a just demand for a reduction of rates. It seems to me that this is a case squarely in point.

Mr. HARDWICK. I did not have that particular case in mind, Mr. Chairman, where legislative action had been taken. The point that I am making is that the railroads have voluntarily, at all times, cooperated with the public. And I repeat that, and I ask you gentlemen to run over it in your own minds, if you have any interest in such matters, and see if you know of any case where the railroads have been asked to reduced their rates for conventions or any large gathering where the public would be benefited, and where they have ever refused to do so.

Mr. TOWNSEND. Oh, I beg your pardon; I did not understand you to mean that.

Mr. HARDWICK. Yes, sir. What I meant to allude to by that, and what I am trying to present here, is that the methods of the conduct of passenger traffic in this country are not now at issue.

Mr. KENNEDY. There are no passenger organizations, are there, that would be likely to make a demand? The individual man that has to make a trip only once in a number of years, or once or twice in a year, is not likely to make an appeal for a lower rate, is he?

Mr. HARDWICK. No, sir.

Mr. ADAMSON. The drummers keep you busy, though?

Mr. HARDWICK. Because he would have no reasonable ground for doing it. The interstate fares are so low now, and so reasonable, that I do not think anyone could justify singling out any one fare and saying that it was unreasonable.

Mr. ADAMSON. The drummers keep you alive to the situation, do they not?

Mr. HARDWICK. Yes, sir; because they are organized for that purpose. I will come to that a little later.

Note the exceedingly large number of demands on the part of the people which have thus been met by the carriers in the matter of mileage-ticket rates themselves, and in every single case of national and State or Territorial application where such reductions could possibly be made.

Starting with the inauguration of the President of the United States, see the excursion rates which are made for the innumerable throngs on that occasion. And then whenever the President or any other prominent personage moves throughout this country excursion rates are made to all points wherever such stops are to be made as

will draw the people. Then look at all of the movements of the military forces of the country, whether for the United States Government or for the National Guard; and again, the rate of 1 cent per mile for the reunions of the Grand Army of the Republic, Confederate Veterans, and for all similar purposes. Then for religious and for agricultural, and commercial, and political, and benevolent, and charitable purposes. Then the rates for national or international expositions; for State, county, and municipal fairs and celebrations; commutation rate for suburban traffic, clergy and students' rates, and very many other exceedingly reduced rates running from $1\frac{1}{2}$ cents per mile down through 1 cent, three-quarters of a cent to one-half cent, and even sometimes less; and then the exceedingly important factor of low excursion rates prevailing during the winter and summer, respectively, and for many points throughout the whole year, whereby tourists for health and pleasure are attracted to all parts of this country to the upbuilding of great and worthy enterprises and the benefit of all the people. Is it thought that benevolence and enterprise may be compelled?

Mr. ADAMSON. Would it trouble you to go back there to your mention of suburban rates? Is there any fixed arbitrary rule about how far away from town those rates shall be permitted to go?

Mr. HARDWICK. It is dependent entirely upon the demands of the traffic; just as far as the people will have occasion to use such tickets. Of course a commutation rate presupposes a daily use, where a man is using it to go in and out.

Mr. ADAMSON. That would not be governed by distance?

Mr. HARDWICK. No, sir; not by distance. We vary as to that. Some points are 50 miles out; some points are 80 miles out; some points are 30 miles out.

Mr. ESCH. The commutation rate is less than your mileage, is it not?

Mr. HARDWICK. Oh, yes, sir—about half a cent a mile. It runs down in some cases as low as that.

Now, starting with the regular, or flat rates, which have been made by the respective States, in some cases 3 cents, in other cases 2 cents, and in the Far West, as has been stated to you, 4 and 5 cents, 8 and even 10 cents per mile, when even these maximum figures are considered, and all the vast volume of the passenger traffic of this country has been moved, the result, as shown in the Interstate Commerce Commission report, is an average of a little less than 2 cents per mile for handling 738,834,667 people, without, I believe, a single complaint having been made before the Commission by a single one of these passengers.

That is an average for every man, woman, and child in the country of nine and a half journeys a year. And with all this throng of people, moving like ants, running back and forth throughout this country under the rate adjustment provided by the carriers, not a single complaint has been filed before the Interstate Commerce Commission as to any unreasonableness or any injustice either as to rate or regulation.

Mr. GAINES. Mr. Hardwick, that suggests what has been in my mind all through this hearing. You understand, do you not, that the Interstate Commerce Commission now has jurisdiction to hear complaints as to whether a given rate is unreasonable or not?

Mr. HARDWICK. Yes, sir.

Mr. GAINES. As, for instance, whether it is reasonable for the Big Four Railroad to charge 2½ cents a mile and 3 cents a mile, or whatever it is, from the Ohio line on to Chicago?

Mr. HARDWICK. Yes, sir.

Mr. GAINES. And does it not seem to you that having passed a law providing that the Interstate Commerce Commission may try these questions upon the suit of any person who feels aggrieved, this proposed legislation is in conflict with the spirit, at least, of the principle of regulation?

Mr. HARDWICK. It has seemed to me so, sir; and I am trying to set that out just as plainly and respectfully as I can, just in a few minutes.

Mr. ADAMSON. But would it not be a sufficient answer to the complaint Mr. Gaines suggests to show that a law of Illinois permitted the railroads to charge 10 cents in that State?

Mr. GAINES. That is an interstate-commerce train.

The ACTING CHAIRMAN. Mr. Gaines might suggest in that connection that this bill was introduced and these hearings provided for before there was any rate bill.

Mr. HARDWICK. Yes, sir. I am much obliged to the Chairman.

The ACTING CHAIRMAN. That is, before the rate bill had become a law, in other words.

Mr. HARDWICK. If the maximum rate shall, therefore, be throughout the United States 2 cents per mile, as will be the result of the measures which you now have under consideration, then may I ask the honorable committee if they think that the railroads should still be asked to continue making further reduced rates for all of the special occasions and the general purposes to which I have referred? Or is it your opinion that the maximum rate shall be a uniform rate of 2 cents?

If, under all the circumstances and conditions now prevailing, the average rate obtained is actually 2 cents (or, I may say, a little less; it really is 1.99 cents), then, under the changed conditions of the flat 2-cent rate as the maximum, the average rate would be not more than 1.33 cents. And yet these measures state that the rate shall be 2 cents. May I ask you gentlemen how it is possible under such conditions for the carriers to obtain 2 cents even as the maximum, except for an insignificant share of this traffic?

Consider the Southern Railway for instance; for the fiscal year ended June 30, 1906, operating 7,515 miles of railroad, the total revenue from passenger traffic was \$13,259,113.85. The total number of passengers carried 11,663,550. Total number of passengers carried one mile 549,518,645. Average receipt per passenger per mile 2.413 cents. These results were obtained under the present maximum rate of 3 cents per mile.

Further to show some of the loss to the Southern Railway if these bills should become effective, our mileage ticket sales for twelve months ended November 30, 1906, amounted to 56,811 books at \$25 each, or \$1,420,275.00—10.71 per cent of the total income from passenger traffic for one year. Should the mileage ticket rate be made maximum 2 cents per mile I estimate it would mean a loss to us of nearly one-half million dollars per annum.

If the maximum rate is reduced to 2 cents per mile for all traffic, the average rate based on the foregoing statistics would be reduced for the Southern Railway to 1.609 cents per mile, and the earnings

from the same number of passengers one mile, that is, 549,518,645, would be approximately \$8,839,409.23, or a reduction in revenue of \$4,419,704.62, thus making it necessary to carry 274,759,322 additional passengers one mile, an increase of 50 per cent, or a total of 821,277,967 passengers, in order to maintain the present total earnings, to be just where we are to-day. I do not think it is in the timber in our section of the country.

MR. ESCH. You made no allowance, did you, for the possible increase of traffic by reason of the reduction?

MR. HARDWICK. No, sir; I am just taking the number and showing what we would have to get additional, as bearing on that, to show what the increase would need to be.

MR. ADAMSON. I suppose it is established, and the question is no longer open, as to whether it is the best and most economical policy to run so many excursions? If it is not the most economical and best policy for the railroads to run so many excursions, could you not handle this travel better if it was distributed at a common rate throughout the entire course of the year?

MR. HARDWICK. If we knew of any such method, Mr. Chairman, we would, as I said some time ago, long since have put it into effect. But we know of no way of controlling the daily travel of passengers in this country. It depends upon so many causes that no human being can control it.

MR. ADAMSON. There are some associations that you must respect. For instance, the Confederate and the Union veterans have sacred memories; the church folks have sacred hopes; and we have got to have all those associations.

MR. HARDWICK. And I beg to remind the Chairman that they were provided for by the carriers without legislation.

MR. ADAMSON. But there are a great many other excursions that sometimes appear utterly useless and nuisances.

MR. HARDWICK. They might to some persons, but to the people patronizing them of course they seem to be very desirable.

MR. ADAMSON. What is the fact? Do you handle that sort of traffic as conveniently and as economically?

MR. HARDWICK. I must say, Mr. Chairman, that the railroads throughout this country are gradually diminishing the number of what are called cheap excursions where they themselves, as the carriers, have gone out to get up this additional traffic or stimulate business in that way, for the reason that they have so much of the regular traffic, freight and others, on the road that they can not very well handle this other cheap business.

MR. ADAMSON. That is the point. Is it not true that they are obstacles to your business, and that you would rather discourage them?

MR. HARDWICK. Yes, sir. We have cut out nearly \$200,000 a year of that on the Southern Railway.

MR. ADAMSON. That is the point I wanted to make.

MR. HARDWICK. A great deal has been said with reference to the average number of passengers on each train and the number of passengers in each car. While it is true that the average number of passengers handled on passenger trains is below the average capacity of such passenger trains, were the traffic equally distributed on all passenger trains operated at the same time, I desire to invite your attention to the fact that some of our trains are at present carrying

their full capacity while many other trains are carrying greatly below their capacity.

The volume of passenger traffic would, as stated above, have to be increased 50 per cent in order to maintain the present basis of earnings. May I ask if a single member of this committee thinks this could be done in our sparsely settled country? Further, even if it were possible to secure this increase of 50 per cent in earnings (which I do not think any one believes would be possible, certainly we do not), we would have then to increase the present maximum capacity of our passenger trains, and as this would overtax the capacity for proper train handling the operation of additional train service would have to be provided for, and the cost of this additional service would have to be again provided for out of the passenger earnings.

The cost or expense of handling this traffic being thus compounded, it will be seen that we shall have to again compound the number of passengers to be carried and the amount of revenue to be obtained therefrom before we are actually on the same relative basis of revenue and expense as we were before these enormous reductions were begun.

With reference to the cost of handling passenger traffic it should be borne in mind that it is not the average number of passengers in each coach nor the average number of coaches on each train which the carrier has to provide for, but it is the maximum number of passengers and the maximum number of coaches which is the actual test, and it can not be urged that we would only have to increase for the average carriage of our passengers, but we would have to actually increase for the maximum number of our passengers because we should at all times have to be prepared for the maximum, and we could not safely take it for granted that we would be called on to handle either the minimum or, for that matter, the average number of passengers at any given time or length of time.

Is it not better to leave the passenger traffic rate adjustment and the methods undisturbed, relying upon past experience and the certainty of the knowledge that the passenger man himself will certainly always see to it that his rates are sufficiently low to properly induce the greatest amount of travel at all commensurate with the expenses of the conduct and proper care of that traffic?

It must be plain to this committee that no general flat rate of 2 cents as the proposed maximum could possibly be considered fair and equitable as applicable to all portions of this country. The exact conditions of each and every part of this great country must be considered.

While it has never been made known to us that there is any complaint of unreasonable charges or lack at any time in cooperating on any fair and reasonable basis, yet if such should appear there is already provided the Interstate Commerce Commission, where these matters could be heard and adjusted. Is it not manifest that so far as passenger traffic is concerned that the carriers themselves, in looking, if you please, to their own interest will also be sure to take care of the people in such traffic?

Referring to the effect of the comparative density of population, taking the States in groups 1, 2, and 3, as shown by the last report of the Interstate Commerce Commission, and note that the density of population in these three groups averages 103 persons to the square

mile. Starting with Massachusetts with a density of population of 370 people to the square mile, and New York with a density of population of 160 people to the square mile, of Ohio with a density of population of 105 people to the square mile, and so on through the remaining States composing these groups, brings the average of these groups, as stated, down to 103 people to the square mile. Then take groups 4 and 5 in which the Southern Railway mainly has its mileage, and see that the average for these two groups is 37 people to the square mile. Then consider that of these 37 people probably 33 $\frac{1}{4}$ per cent are negroes, and then know that hardly more than 5 per cent of our passenger travel in the South comes from negroes, it will be seen that for passenger traffic purposes under the most favorable conditions the density of population in groups 4 and 5, that is, the States from the Potomac to the Mississippi, would be about 27 people to the square mile as compared with 103 people to the square mile north of us.

The greatest number of persons to the square mile in any State in which the Southern Railway has its mileage in the Southeast is about 50, which is in Tennessee, and the State in which is the lowest number of people to the square mile is Florida, where the Southern Railway has joint trackage rights to Jacksonville, the population in Florida being 10 people to the square mile.

Then consider in the densely populated part of our country the number of large towns which are near together, and further that the expense of carriage or passenger traffic in our more sparsely settled country is far greater than in the more densely settled, because considering alone the one item of handling baggage; for example, in our part of the country we check one piece of baggage to about every 6 passengers, and in the territory north and east of us one piece of baggage is checked to about every twelve or fifteen passengers. What is true of the South in this respect is also true of any other of the more sparsely settled sections of our country.

I also quote as information from the last report of the Interstate Commerce Commission the fact which I am sure will be surprising to you, and that is, as you will observe on page 98, the railroads which are operated in groups 4 and 5, which as stated are the States extending from the Potomac to the Mississippi, earn the lowest revenue per train mile of passenger trains of any group of the entire United States, not even excepting the group in which the arid plains of Arizona and the towering mountains of Colorado and Nevada are located, for in group 4 we earn \$1.03 per train mile and in group 5 we earn \$1.05 per train mile, and there are no other groups in all the United States which earn as little per passenger train mile as is earned in the South, and yet I may say truly that I am sure there is no section of the country which is provided with better passenger train facilities and service than that which is afforded in groups 4 and 5, where these least earnings are obtained.

The Southern Railway, according to the last report of our comptroller, passenger-train earnings per train mile for the fiscal year ended June 30, 1906, were \$1.03. This is obtained by taking our most remunerative train, which earns \$1.70 per train mile, on down to the lowest earning train, which earns 8 cents per train mile. These extremely low figures are convincing that the passenger traffic of the Southern Railway in its entirety is conducted without remuneration in the way of any profit, but it is hoped by continuing to provide this service in

the Southeast that population will be attracted and that additional developments will be made, so that the present passenger train service on the Southern Railway will in time become profitable and become more and more improved and increased.

An important consideration is the fact that the loss to any carrier in conducting passenger traffic is largest from the two extremes, first, where the branch line and local revenue is thinnest, and yet such service is operated in the interest of the people, and then, on the other hand, from the accessories of the highest-class Pullman train service, electric-lighted trains, with all the latest appliances for safety, also such as dining-car service, which is provided by the Southern Railway and many other lines for the comfort of the passengers and which is really operated at a very great loss.

I want to say that we estimate that our loss on dining-car service alone will exceed \$60,000 a year, and my opinion is that it will be nearer \$75,000. That is the actual loss, out of our pocket, for operating dining-car service for the public.

Then all the other features of such through service which the general traveling public now demands for any long journey, such as would be comprised generally speaking in an interstate journey, or for that matter also for even an intra-state journey.

I ask particular attention to this statement:

Then the saving of time which is afforded by these extra facilities, as for instance taking the Southern Railway between Atlanta and Washington, I estimate that in operating dining-car service, instead of stopping at stations for meals as formerly, we effect a total saving in time of seven hours out of each 24 to the general traveling public, and this is done at a very serious loss to the Southern Railway but is done to protect travel our way and to promote the best interest of the section which the Southern Railway penetrates, to contribute all we can to the sum total of the energy of the business development of our country.

Speaking with all plainness and with all certainty with reference to the section of country in the Southeast in which the Southern Railway has mileage, I know, and the gentlemen of this committee who are at all familiar with that section also know what it really needs is not a curtailment of passenger train service and efforts of development in that respect, but it needs more and more enlargement of facilities of all kinds, such as are rapidly multiplying over this whole country, notably the new passenger station here at Washington, which it is said will surpass that of any in the known world, and for our part of the country the new passenger stations which have been built in large numbers, and more are rapidly being built, in order to afford more terminal facilities for the care of this passenger traffic.

Then the enormous expense of double tracking which is now under way on many parts of the Southern Railway, and the expense of rebuilding bridges and permanent structures, and the expense of equipment, and other enormous expenses.

While it is true large increases in the volume of traffic have been realized by the Southern Railway since its organization twelve years ago, yet in that time, as you gentlemen may have seen from the letter of our president, Mr. W. W. Finley, of the 16th instant, to the public served by the Southern Railway Company, there has been nearly \$100,000,000 expended by the Southern Railway alone in the Southeast for the preparation to handle its traffic; and some slight idea of the

enormous increase of expense in maintaining and operation may be gathered from this letter of Mr. Finley's, in which he says:

The present situation is:

An immense increase in all expenses, without any increase in rates—in fact, with the proposition almost universally made to decrease rates by legislative action.

The large increase in expenses may be illustrated as follows, since 1898:

Bridge timber has increased from \$9.36 to \$20.52 per thousand feet.

Cross-ties from 28 cents to 34.5 cents per tie.

Steel rails from \$17.75 per ton to \$28 per ton.

Since 1898, prices of equipment have increased as follows:

Locomotives from \$11,392 to from \$16,000 to \$20,000.

Passenger coaches from \$6,315 to \$9,468.

Freight cars from \$500.43 to \$765.

Coal cars from \$368 to \$1,135.

The cost of labor has increased per mile of road from \$1,621.67 in 1895 to \$2,874.71 in 1906, and from \$2,513.64 per mile of road in 1905 to \$2,874.71 in 1906.

Taxes of the company per mile of road have, since 1895, increased 63.41 per cent. And many other items of increase might be cited.

Mr. ADAMSON. Major, these cars and engines that cost an increased amount have also a correspondingly increased capacity, have they not?

Mr. HARDWICK. Yes, sir.

Mr. ESCH. That is due, too, to the increased cost of the rails, the increase of the weight of the rails, is it not?

Mr. HARDWICK. Yes, sir. These are the necessary expenses to take care of the traffic, and under the same rates; it matters not how they are handled.

Mr. BARTLETT. Some things have increased out of all proportion to the others. Take the matter of timbers necessary in the matter of cross-ties, and the matter of timber necessary to build cars—pine timber, for instance—that has increased largely, more in proportion than the other expenses, has it not?

Mr. HARDWICK. Yes, sir.

Mr. RICHARDSON. Major, is it not true that the Southern Railway, in its general consolidation throughout the South, has absorbed a great many railroads or branches of short lines that were actually in bankruptcy and were or about to be abandoned?

Mr. HARDWICK. Yes, sir.

Mr. RICHARDSON. And has put them on their feet?

Mr. HARDWICK. It has undertaken the rehabilitation of those properties at the greatest disadvantage.

Mr. BARTLETT. When did you say that was—since what date?

Mr. HARDWICK. 1895. In the service of nearly all my life in the passenger traffic department of the company which I represent I have never had a request made upon me for a general reduction of our permanent or flat passenger rate, except by one organized commercial body, and their views seemed to be that this reduction should be of mileage rate, and that it would be mainly desirable if confined to the exclusive class of travel which they represent; and with reference to the flat rate of 2 cents per mile I take the liberty of quoting from the report of the chairman of that organization at its last annual meeting, as follows. On page 13 he says:

Obviously under such varying conditions it is impossible to fix a uniform rate for the transportation of passengers all over the United States which would not give to some lines—and those the most prosperous—an excess of earnings, while denying the others, even in times of such remarkable prosperity as these, the revenue needed to maintain and operate their property. However indifferent anyone may be to the

effects of legislation such as this upon the railroads, they can not afford to lose sight of the constitutional rights which protect properties of this nature from reductions which prevent reasonable earnings upon the actual value of the property concerned.

I ask you gentlemen to consider the Interstate Commerce Commission's report, which shows that the average rate is about 2 cents and the average haul per passenger is about 32 miles; thus you will see that the passenger traffic of this country is not made up of the longer line travel which the measures before you seem to have under consideration, but they are made up of short journeys, which is conclusive evidence that such disastrous reductions as these bills would force upon the carriers would really benefit each traveler to a very trivial extent, and yet the great loss thus inflicted upon the carriers, certainly in our part of the country, would be well-nigh overwhelming.

I think that upon due reflection you will agree with us that the history of this country so far has justified the claim that the passenger interests may reasonably be left to the passenger men—that is, to the carriers themselves, especially when it is considered that with the tribunal of the Interstate Commerce Commission, created by yourselves, there is always an opportunity afforded for the filing and the hearing and the final adjudication of any complaints of any unreasonable or unduly high or unjust rates for passenger fares in this country. And I ask particular attention here: And then the further very remarkable fact that practically no complaint has ever been made before the Interstate Commerce Commission since its establishment nearly twenty years ago either as to the unreasonableness or the improper adjustment of rates or the regulation of passenger traffic, whether of mileage or any other tickets.

By the gentlemen who have preceded me in submitting their views in opposition to these proposed enactments, the whole of our great country, with reference to its passenger traffic conditions, stretching from New England to the Pacific shores has been unrolled as a panorama before this committee, and you gentlemen have been made acquainted with very many of the varied and vast differences in all the conditions as between almost each and every part of this entire country, whether it shall be by contrasting the sections most widely separated or by considering even those that lie alongside each other, for it has been seen that even the comparatively narrow dividing lines of the Potomac and the Ohio rivers separate these contiguous sections of as wide differences almost as exist between the Pacific slope and Massachusetts.

Then it must appear when this committee considers all that has been thus presented that no one rate, either as a uniform rate or a maximum rate, for interstate passenger traffic may fairly be considered reasonable when applied alike to each and every part of the United States.

We respectfully submit, having all confidence in the wisdom and the fairness of this committee, that it is utterly impossible for any law to be enacted regulating passenger rates in the manner sought to be set forth in these measures which shall at once be fair to the constituents which you gentlemen represent and the patrons we serve and likewise fair to the carriers which it is our duty and responsibility to represent.

In conclusion, therefore, we make our request that until some very substantial and well-sustained complaint shall actually be made that

our present passenger fares of the Southern Railway as a general proposition for interstate traffic are unfair or unreasonable, that no issue at present be made; and furthermore, whenever such complaint shall actually be made we most respectfully request that it be submitted to the tribunal which you gentlemen have created, and that is the Interstate Commerce Commission; for there, under the law which the Congress passed for all the people, no decision concerning the reasonableness of any rate can be made until both sides—that is, the parties complaining of the unreasonableness and the parties undertaking to support the reasonableness of the rates thus challenged—shall be present and heard.

Should not this course be followed, at least until the new Interstate Commerce Commission, under the new law which has so recently become effective in its fullness, only about two weeks ago—for while the law begun to be effective August 28, 1906, it became operative in its entirety with reference to passenger traffic on January 1, 1907—shall have had the opportunity of testing its capacity to deal with and to settle these questions before Congress itself intervenes and so seriously interrupts the complete working of this law as will cause the loss and distress which we apprehend?

We hope and believe confidently that this committee will so conclude.

Mr. ESCH. Mr. Hardwick, does the Southern Railway system earn any part of the mail subsidy for fast mails to the Southwest?

Mr. HARDWICK. Do we earn any part of it?

Mr. ESCH. Yes.

Mr. HARDWICK. No, sir. That has ceased. We ceased operating the train on January 7. We did have a special train; and on that point I would like to say, just as a little personal reminiscence, that I had the pleasure many years ago, when I was stationed in Atlanta, of getting on a train at Lithia Springs and riding over to Birmingham with Senator Allison. It was the first time he had ever been South, and the conductor, as I boarded the train, said to the Senator: "Why, here is a man that can tell you about these matters that you have been asking about." I was then introduced to him, and he was asking questions about local matters. I was amazed to see how much he knew about our local conditions there, about our streams, about our coal country locally, and how much he had observed from Washington all the way down. He went to Birmingham and was there for a few days. We paid him the greatest respect possible; he was entertained, and all the honors possible to be given to him were given, both by the press and by the people locally. Afterwards he went on down to New Orleans. The following year came the first question as to this mail subsidy to which you allude, and it was brought before Senator Allison, and I had the privilege of speaking to him myself before the Committee on Appropriations of the Senate. Senator Allison said before that committee, without a single request, that he thought if there was any part of the country that ought to be encouraged by the Government it was the Southeast, because it was on the eve of development, and he knew of no way in which it could be so well developed as to give it good mail service for improving its commercial conditions with relation to the centers of the money markets and business east of Washington. And, I may say, that through him more than any one man, and because, I think, of that visit, when

the Senator himself saw exactly our conditions, the mail appropriation first became established. It was not a selfish proposition on the part of the Southern Railway.

Mr. RICHARDSON. Do you know how much the mail was expedited, for instance, by the fast mail train, say at Montgomery, Ala.?

Mr. HARDWICK. At Montgomery it was expedited practically—well, it ran from about twelve to twenty-four hours all the way through.

Mr. RYAN. Why was it discontinued?

Mr. ADAMSON. Did you not voluntarily surrender it because you could not afford to run it any longer at that price?

Mr. HARDWICK. Partly so. We found great difficulty on that score, and then we felt somewhat that we were unfairly criticized, as if we were trying to get something out of the Government without returning value received, and that is the whole proposition that we have to make before this committee with reference to our passenger traffic. I stand here to say that in all my life—and I have never been anything else but a passenger man—I have never known, certainly as to our company, by any regulation or any device or any arrangement whatsoever, that we have ever sought to take advantage of the public. We have never retained one penny that did not belong to us, nor have we ever gotten anything from the public except we returned full and more than full value received. Our business is not operated in that way.

To allude again to the question of redemption of tickets, I found before the different legislatures, and even in the different courts where I have had to appear in behalf of the department that I represent, that many of them were perfectly amazed to know that a railroad company would give back anything. They seemed to think that once having gotten the money, they would naturally pocket it. We are not a dishonest body of people. We naturally want to get the money that we can for the service that we render, but nothing more than that.

Mr. STEVENS. Mr. Hardwick, I was very much amazed at the statement that you have received less earnings per passenger mile for your section than the extreme Southwest, or the Pacific mountain slopes. Why is that, when you have so much more population and not as much territory?

Mr. HARDWICK. That, you will see, Mr. Stevens, is in the report of the Interstate Commerce Commission. I think it is very largely attributable to the fact that so large a number of our population are negroes. They very rarely engage to any extent in interstate journeys—to go any distance, I mean. They just travel around a little on the cheap excursions.

Mr. STEVENS. But you people boast of the great progress you have made. Now, your people ride on trains. You have good facilities.

Mr. HARDWICK. Yes, sir.

Mr. STEVENS. People in the West do not have the manufacturing, and their agricultural enterprises are scattered, and so on.

Mr. HARDWICK. Well, those are the facts, Mr. Stevens, as given by the Interstate Commerce Commission. I simply gave you their figures; and we have a painful realization of it, as you will see if you care to look over our train-earning sheet for the year, which I have brought with me.

Mr. RYAN. Is it because of the fact that you have such a large negro population in the South that do not ride very much?

Mr. HARDWICK. To a great extent; yes, sir.

Mr. KENNEDY. Do you not think that these excursions, when they occur occasionally, have a tendency to keep people from going on necessary journeys; and do they not wait until the time for some cheaper rate comes? Do you not think that the cheap excursion occasionally really lessens your general business in that way?

Mr. HARDWICK. In our country, as I say, having this peculiar population, the negroes, and our people not being a very wealthy people, we have felt that it was well to encourage them to travel and go to the sea shore and the mountains, respectively; and that could only be done by these very low rates. We have operated, as I have said, a very large number of trains, which you gentlemen here may look over and see.

Mr. KENNEDY. Might it not be that if you had a considerably lower rate right along, travel would be stimulated there as it was, say, in Ohio?

Mr. HARDWICK. It is not my information, Mr. Kennedy, that it has been stimulated to a remunerative extent in Ohio. I have the figures here of the lines, which I would like to read if you care for them.

Mr. KENNEDY. I may be mistaken. I got my information with respect to that from some one right here at the end of the table, more than from anyone else.

Mr. HARDWICK. There is nothing more delusive than the idea that these wholesale reductions can of themselves, as a normal condition, force an increase of travel. They will do so temporarily to a small extent, but not to any permanent extent. As of course you are aware, the center of population is a station on the line of the Cincinnati, Hamilton and Dayton Railroad.

Mr. KENNEDY. In Ohio?

Mr. HARDWICK. In Ohio, or in all this country.

Mr. ESCH. Oh, it is in Indiana.

Mr. HARDWICK. It has gone on, now, has it?

Mr. ESCH. Yes; it is near Richmond, Ind.

Mr. HARDWICK. Yes; it is at Richmond now, but a few years ago it was at Dayton. Anyway, we all know that the Cincinnati, Hamilton and Dayton goes through a very populous part of the country. It goes through counties running from Hamilton to Hancock in Ohio with a mileage of 10,052 square miles and a total population of 1,359,000. Now, strange to say, in the case of the Cincinnati, Hamilton and Dayton Railroad, because it is so near the center of population (it works out an average of 103 people to the square mile against, as I tried to show, between 27 and 37 in our country)—on the Cincinnati, Hamilton and Dayton Railroad, on the line from Cincinnati to Toledo, which is, I suppose, without doubt one of the most satisfactory roads for passenger traffic (it is a straight-line proposition, and has not many grades and curves, and goes through a splendid country, and ought to be able to show at the very best)—the 2-cent rate became effective in Ohio on the 10th of March last; and beginning in January and February, that line between Cincinnati and Toledo showed an increase for January of 5 per cent, and in February of 10 per cent. Beginning immediately with the 2-cent rate

in March, they showed a decrease of 9 per cent in March, 9 per cent in April, 9 per cent in May, 2 per cent in June, 1 per cent in August, and 3.5 per cent in October.

Mr. RYAN. With what are you making the comparison?

Mr. HARDWICK. I am simply showing the actual results—the effect of the 2-cent rate where it is supposed to be remunerative to the general public.

Mr. HERBERT. But with what parts of the State? You have not stated that.

Mr. HARDWICK. I said the Cincinnati, Hamilton and Dayton, running from Cincinnati to Toledo, which is the best part of Ohio—not only Ohio, but probably the best part of the country.

Mr. KENNEDY. No; you are greatly mistaken about it being the best part of Ohio.

Mr. HARDWICK. I beg your pardon—well, next to Youngstown.

Mr. ESCH. Mr. Kennedy comes from the eastern part of the State.

Mr. KENNEDY. The roads running from Pittsburg to Cleveland, and up through our valley, earn approximately \$55,000 per mile of track. There are no railroads on the face of the earth that earn more than they do. They do not court the passenger traffic; they would be glad to get rid of it. Most of the passenger traffic through all of our section of the country goes on the trolley cars, and yet the other roads showed a great increase when the rate was reduced.

Mr. HARDWICK. The other reductions run down on that system through the more thinly settled sections of their branch lines, amounting to an average of 35 per cent reduction.

The ACTING CHAIRMAN. Mr. Hardwick, you are speaking purely of passenger traffic?

Mr. HARDWICK. Yes, sir.

The ACTING CHAIRMAN. Mr. Kennedy is speaking of the earnings of the road regardless of whether the traffic is freight or passenger.

Mr. HARDWICK. I am speaking of the effect of the 2-cent rate.

Mr. STEVENS. Mr. Hardwick, is not a part of that reduction caused by the competition of trolley lines?

Mr. HARDWICK. I want to say that in the case of trolley lines it is always a "wheel within a wheel." Trolley lines of themselves are the best evidence of a densely populated country. A trolley line can not be compared with a steam railroad, because its conditions are absolutely different. Most trolley lines go through the central square of the town, and on out through, round about the principal part of the town. They then buy up, as a usual rule, certain suburban tracts for residences and business development, etc. A railroad engages in none of those things. It engages simply in transportation. A trolley line can therefore transport passengers at a very low rate and make money enormously out of these collateral investments; but a railroad has nothing to make money out of except the transportation which it gives.

Mr. STEVENS. Take that same territory between Cincinnati, Hamilton and Dayton: The trolley lines are very thick in that territory, as I recall.

Mr. HARDWICK. Yes, sir.

Mr. STEVENS. Will not those trolley lines at some time—because I think there are new trolley lines being built there all the time—take

quite a large volume of that traffic away from the Cincinnati, Hamilton and Dayton road?

Mr. HARDWICK. Oh, naturally; and parts of them do already take it away. The Cincinnati, Hamilton and Dayton and its branches already show these decreases, running all the way down from 1 per cent to 45 per cent.

Mr. STEVENS. Would not the decrease have existed anyway?

Mr. HARDWICK. Of course, you know, that is something we can not say. Under the normal conditions—

Mr. STEVENS. Well, you can judge of this. That it generally happens, when there is a trolley competition between two such points as Cincinnati and Hamilton or Dayton, that the trolley line will have the preference as against the railroad, within a reasonable distance.

Mr. HARDWICK. I say, on account of the local conditions, you know, running up into town.

Mr. STEVENS. Yes.

Mr. HARDWICK. But I do also want to say that if the Cincinnati, Hamilton and Dayton management, knowing of the approach of this trolley line and this development of competition, had considered that it could meet those rates or lower its own rates and make money, it naturally would have done so. That would have been its business. You do not suppose a railroad holds its rates arbitrarily high to disable it from engaging in the full development of revenue.

Mr. BARTLETT. It meets the conditions.

Mr. HARDWICK. Certainly it does. That is my point.

Mr. STEVENS. But do you not know of cases in the States where trolley lines have been put into just such locations as this, and the railroads have lowered their rates to compete with the trolleys, and have introduced additional facilities, and yet the trolleys would get the business?

Mr. HARDWICK. Yes, sir; that is true. And, of course, the gentlemen that are more familiar with our section know that that is a fact. I allude to the railroad that runs out of Atlanta toward West Point. When the trolley line was first put out to College Park, a distance of 8 or 9 miles, the railroad met that rate. Now, of course, you know a railroad, in meeting such a rate, does not meet that rate only between the original point and the 10-mile point where the trolley line goes, or 15 miles, as it may be, but it scales every one of its rates beyond that. That is the reason it can not do those things. That railroad did try to do that, but it found it so disastrous that it finally had to go out of that competition and put its rates back to where they were.

Mr. ADAMSON. They quit stopping the trains at College Park and West Point because people would buy tickets to those points and get off and ride on the trolley car.

Mr. HARDWICK. Yes, sir; it disturbed all of that, and it was bound to be disastrous.

Mr. ADAMSON. You can not come from Union or Grange and get off at College Park or West Point now, for fear that you will buy a ticket into Atlanta and ride on the trolley car.

Mr. HARDWICK. All the trains do not do that. Some stop there—quite a number of them.

Mr. STEVENS. That is just the point I am asking you about. In the State of Ohio, during the last two years, there has been a tremendous

increase of trolley competition, and it is not fair quite yet to judge what is the effect of that 2-cent rate; is it?

Mr. HARDWICK. No, sir; and I want to say—I am glad you asked that question, because it reminds me of a very important thing I wanted to say—that not until November 1, did the lines in Ohio begin using the 2-cent rate for interstate traffic. Notwithstanding that fact, they were still getting 3 cents, or whatever it was, $2\frac{1}{2}$, or more than 2 cents. They did not lower their interstate fares until beginning November 1.

Mr. STEVENS. What is your State rate in Virginia?

Mr. HARDWICK. Our State rate in Virginia, sir, is 3 cents as a maximum.

Mr. STEVENS. Established by law?

Mr. HARDWICK. Yes, sir.

Mr. BARTLETT. By Commission?

Mr. ESCH. Was not the 2-cent rate established by the Commission in Virginia declared unconstitutional?

Mr. HARDWICK. That was a mileage ticket, sir. It was established—it passed the legislature, and they have a very peculiar condition in Virginia. There is a conflict there, which has never been cleared, as to which one has the paramount right—the legislature or the Commission—to name the rate.

Mr. BARTLETT. The trouble about that was that the Commission fixed the rates at a certain amount, and then the legislature, after doing that of its own motion, wanted by itself to fix this 2-cent interchangeable rate.

Mr. HARDWICK. Yes, sir.

Mr. BARTLETT. That is the case that came up before the board.

Mr. HARDWICK. Might I say that it is somewhat similar to the situation between this committee and the Interstate Commerce Commission?

Mr. BARTLETT. Well, of course you can say it. I think probably it is.

Mr. KENNEDY. I suppose the 2-cent rate was held to be unconstitutional because it was a discriminatory rate given only to a few?

Mr. HARDWICK. It was a mileage ticket, sir. The supreme court has always held that no one may be compelled to issue a mileage ticket.

Mr. ADAMSON. While you may do some things voluntarily in consideration of certain conditions, if the Government undertakes to regulate you, it has to observe equality.

Mr. STEVENS. One question more, Mr. Hardwick: You stated that you considered it an advantage to sell a 1,000-mile ticket. Does it cost you less to issue the 1,000-mile ticket, and go through the various forms of redeeming and caring for it, than to sell a thousand miles of tickets locally, or whatever it may be? Which would you prefer to do, from the railroad standpoint?

Mr. HARDWICK. Speaking personally, for myself, I think there is no more iniquitous form of transportation than a mileage ticket.

Mr. STEVENS. Why?

Mr. HARDWICK. It is a source of the greatest fraud and depredation upon the lawful traffic. As was known, when the scalpers in Atlanta, through engaging there in some dishonest methods of securing mileage tickets from one of the railroads in Atlanta, were closed

by law, and their stock was turned over to the various railroads from which it had been more or less dishonestly obtained, in that stock was found a very large number of the stubs of the mileage books having 10 miles and 15 miles and even 5 miles unused.

Now, it is a common practice—and I do not mean to speak disrespectfully of any class of people or of labor; I do not mean to say that dishonesty belongs, in so far as railroading is concerned, in any particular branch of the service—but the common practice is for a traveler to use a mileage ticket and hand it to the conductor and slip in there a \$1 or a \$2 bill; and the conductor gets the ticket, and he goes on back to the baggage car or the Pullman car, as it may be, and then, later on, brings this mileage ticket back to the passenger, and the railroad does not get a single cent for carrying him. What that man has put in there simply goes into the pocket of the conductor, or the Pullman conductor, or whoever may be lifting this transportation.

Mr. RYAN. That might be done whether he had a mileage book or not.

Mr. HARDWICK. Oh, yes, sir; but a mileage book is very convenient, and the usual practice.

Again, you gentlemen are acquainted with the fact that some years ago, in Chicago, on the Lake Shore Railroad, a case was brought (and that is only one example of many thousands) where after the mileage had been exhausted, and only the mileage cover left, counterfeit strips of the mileage were inserted in this cover. The scalpers engaged in that, and the cover was all right, and it appeared to be in every way authentic; but the contents of it, the records upon which the railroad relied to get their money, were found to be counterfeit. You remember that that was brought up in Chicago, and the perpetrators there were convicted.

Mr. TOWNSEND. It always requires the connivance of the conductor—the employees of the railroad?

Mr. HARDWICK. Yes, sir; or it may be a clerk in the office of the railroad.

The ACTING CHAIRMAN. I think you misunderstood, Mr Townsend. It does not always require the connivance of the conductor?

Mr. HARDWICK. Oh, no.

Mr. TOWNSEND. Well, I mean, some railroad employee where the book is to be used.

Mr. HARDWICK. Oh, yes; it might be a conductor, or as in this case, you see. It was a railroad clerk in the general office—in the case I am alluding to.

Mr. ADAMSON. Would the danger be any greater under the legislation proposed than under the tickets you now sell?

Mr. HARDWICK. No; but we submit we have troubles enough, and we hope this committee will not add to them.

The committee thereupon adjourned until to-morrow, Thursday, January 24, 1907, at 10.30 o'clock a. m.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Thursday, January 24, 1907.

Committee called to order at 10.35 a. m.

**STATEMENT OF HON. HILARY A. HERBERT, REPRESENTING THE
SEABOARD AIR LINE RAILWAY SYSTEM.**

The ACTING CHAIRMAN (Mr. Mann). We will be glad to hear you now, Mr. Herbert. Please give your name.

Mr. HERBERT. Hilary A. Herbert. I represent the Seaboard Air Line Railway system.

The ACTING CHAIRMAN. Are you connected with that road?

Mr. HERBERT. Yes, sir.

The ACTING CHAIRMAN. In what capacity?

Mr. HERBERT. I am local attorney for that road in Washington, D. C.

The ACTING CHAIRMAN. You may proceed.

Mr. HERBERT. Mr. Chairman and gentlemen: These bills all relate to a uniform system of mileage over the whole of the United States—that is, the United States proper, the continental United States.

Passenger rates are the prices for services rendered. It is contrary to all human experience that the prices for services should be the same over 3,000,000 square miles of territory, especially when that territory is composed of arid lands, mountains, thickly populated regions and sparsely populated stretches of country. And it is contrary to the genius of our institutions that we should, by law, undertake to make prices uniform over such an extent of territory when naturally they are not uniform.

The Constitution of the United States is said to be, and I believe is, the wisest code of fundamental law, or law of any kind, that ever was devised by human wisdom. The fundamental idea of the Constitution is the equality of the people and of the States. In providing by law, by fundamental law, what should be done, and what should not be done within the United States, the word "uniform" is used only three times; one provision being that "duties, imports, and exises shall be uniform throughout the United States;" another "that there shall be uniform rules of naturalization;" and another that there shall be "uniform laws on the subject of bankruptcy throughout the United States."

With these exceptions this Government does not apply the rule of uniformity anywhere, I may say, except in this sense, that an effort is always made to have laws uniformly just; each and every law is adapted to circumstances. For example, our lands are not all alike; we do not treat arable land, mineral land, and arid land in the same way. The salaries we pay for services are not all alike. We do not pay a copyist clerk the same amount that we pay to a chief of a bureau. We do not even pay labor alike in the navy-yards of the United States. Labor at Pensacola and New York, even though of the same class, is not paid uniform rates. The Secretary of the Navy is instructed by law to consider the wages that prevail in the immediate neighborhood of each navy-yard. These wages are influenced by the cost of living and other circumstances. And so the wages of labor are graduated in every case according to circumstances.

Wise legislation considers the particular facts and circumstances surrounding each case. A wise law ought to be adapted to circumstances of each case and to the situation to which it applies, just exactly as a tailor-made suit ought to fit the customer. The tailor measures accurately around the waist, under the armpits, the length of the arm, the length of the leg, and makes the suit accordingly; and whenever you find a tailor that can make a suit that will fit every man in the United States then it will be time to consider making a straight rate that will be adapted to every railroad in the United States.

I know very well that these bills before you give you full jurisdiction of the whole subject-matter of passenger rates throughout the country; and that having the subject-matter before you, you have it in your power to consider the whole question. And if you have information that will give you accurately the situation, the circumstances, the capacity, and the capabilities of every road, then you might make a general law that could be adapted to every railroad in the United States. But if you had such information before you you would find at the very outset that there was a difference between any two systems, although they may lie side by side, and although they may operate in the same zone. You would find that there was a difference that required distinct and separate provisions.

Now, I have noticed some of the legislation recommended by this committee since we have been attending these meetings, bills relating to bridges across rivers. How do you get at the facts there? They are reported to you by experts. We have engineers stationed in every single district in the United States. These engineers are graduates of West Point; they were selected from the top of their several classes because of their ability and knowledge of engineering; and when a bridge bill is proposed it is always referred to one of these experts, who makes a report to the War Department. The War Department overlooks his work and reports it to you; you take up that case and consider it with the facts before you.

You ought to have—every committee ought to have, if it were possible—just as much and as accurate expert information upon any great question you legislate upon, especially when it involves such interests as are now before you, as you have in these bridge cases. If you had that information you would find in the very outset that there was just as much difference between two railroads and two railroad systems, wherever they might lie, as there is between the plans of these bridges.

There is just one law, a natural law, that does more toward equalizing rates, in my opinion, than it is possible for this Congress ever wisely to do, and that is the law of competition. Just consider what has been the effect of that law heretofore. Railroad rates have differed very much in the past, but they are gradually coming together. You have had before you testimony showing the wide and remarkable differences that exist between sections of the country; between the West, where that system of railroad lies that is represented by Judge Payson; and the South, where the system lies that is represented by myself; and also New England. And yet you find that there is very little difference to-day between the maximum rates in New England, in the South, and in the West. It is the difference between 2 and 3 cents. There are very few railroads in the United

States that now charge—perhaps none of them, according to the testimony—a maximum rate exceeding 3 cents per mile in interstate commerce, and they are very few. If any, perhaps none of them charge lower than 2 cents a mile. That is, there is brought about by competition only a difference of 50 per cent in these roads, brought about by natural laws; and I do not believe that human legislation could expect to reach such results.

Gentlemen, you have not the time, and I am sure you have not the information, nor the time to get the information, that would enable you to make a wise, proper, and just bill that would apply over the whole of the United States; that would regulate all these railroads and fix a fair rate for interstate transportation to them all over the whole country. When, the other day, Judge Payson had read a Massachusetts decision which was applicable to this case, and which was to the effect that the State government of Massachusetts had no right by law to declare or enact that two railroads should be compelled to enter contractual relations with each other, the chairman asked whether there was an analogy between these two cases: Has the Federal Government more power or less power over interstate commerce than a State has over interstate commerce? It seems to me perfectly clear that the analogy is absolute and complete, that the State has absolute and complete jurisdiction over interstate commerce, excepting as modified by the Constitution—that is, by the fourteenth amendment, which provides that “life, liberty, or property shall not be taken without due process of law,” and that the Federal Government has, on the other hand, just as absolute and just as complete jurisdiction over the interstate commerce, its jurisdiction being limited and affected only by that similar provision of the Constitution which occurs in the Fifth Amendment.

Mr. MANN. Before you leave that argument, may I direct your attention to this suggestion in order that you may consider it: A State corporation derives its power through a charter, which is a contract between the State and the corporation, and the State, through its police powers, is in a way a controlling factor in the legislation affecting the rights of the company. The United States Government, of course, can not directly require one railroad company to enter into contractual relations with another, because it has no jurisdiction over the subject at all. But the power of the General Government is not affected by the charter rights which have been granted by the State. Does the General Government have authority under its power to regulate commerce between the States, to forbid a railroad company doing interstate commerce business excepting upon certain terms which may include entering into contractual relations with another company? Will you please consider that in your argument?

Mr. HERBERT. To answer that I will go back a moment. Every State—sovereign State—that is not connected with any other State, has, by virtue of its sovereignty, complete control over commerce within its boundaries, so that a State in granting a charter to a railroad company or other corporation may fix what terms it pleases, and may make a contract with that corporation every time it grants a charter that such corporation shall do business under certain conditions. It was decided in the Dartmouth College case that a charter is a contract, and a State has a right to put specific provisions in the contract. But I was laying down the general proposition, first, that

the State has complete jurisdiction, as these remarks of mine indicate, not only jurisdiction to grant a charter, but jurisdiction to grant it on conditions.

Mr. RICHARDSON. Right there, Mr. Herbert; when the State grants a charter to a railroad, and puts in there certain restrictions, and that State stands tacitly by and sees a railroad consolidate with that railroad to which it has just granted a charter, and that State makes no objection, what is the effect then?

Mr. HERBERT. I think the effect of that is that it consents to that absorption of that road.

Mr. RICHARDSON. Can a State invoke restrictions granted in the charter after it has sat quietly by and witnessed the consolidation of these roads?

Mr. HERBERT. I doubt very much whether it could.

Mr. ADAMSON. If the officials of a State are too derelict in their duty to prevent it, are the people of that State estopped from afterwards asserting their rights?

Mr. HERBERT. I think the people of the State are estopped by what their representatives do. There always must be somebody, either the legislature, the governor, or the government, that represents the State, and therefore the people of the State, if a sovereign can be stopped at all, may be estopped by their government which represents them.

Mr. ADAMSON. The constitution of the State may declare that consolidation shall not occur, yet it does occur in a number of cases. Do you say that citizens who have a right to invoke that provision of the constitution are estopped because certain officials do not do their duty?

Mr. HERBERT. I would say clearly not in that case, Mr. Adamson, because the people have reserved to themselves in your State, Georgia, a power which the legislature has no right to take away, either by active or passive acts; by anything actively done or suffered to be done.

Mr. MANN. It is quite certain that that which they can not do by direction they can not do by indirection.

Mr. HERBERT. You have expressed my idea better than I could myself.

Mr. RICHARDSON. Does it not lead to this: As you stated, a State has jurisdiction over interstate commerce. Has it the right where commerce commences within the State and goes outside, to prescribe a charge or rate for a railroad from the beginning of the transportation of that commerce to the State line?

Mr. HERBERT. No, sir. It was decided in the case of the steamboat *Ball*—I don't remember the first name—but in that case it was held that whenever freight begins to move from one State to another, and is directed to another State, although the company that is chartered to do business within the State only holds itself responsible for the freight while it is within the State, yet if the freight begins to move upon that line and is directed to another State, and its destination is through that State and to another State, then it is interstate commerce, and the State can not regulate it. From the time such freight begins to move it is a subject of interstate commerce, and, therefore, subject to the jurisdiction of the United States. But, gentlemen,

you are leading me away from my answer to the question propounded by Mr. Mann.

Mr. RICHARDSON. Have you given any attention to the fact as to what the real proportion is, in your judgment, of the commerce that a State actually controls as compared to the commerce controlled by the Government in interstate commerce?

Mr. HERBERT. I could not undertake to give you the proportion.

Mr. RICHARDSON. The jurisdiction that the State has in commerce must be very small.

Mr. HERBERT. Well, I should not say very small, but relatively small.

Mr. RICHARDSON. Not over 15 per cent.

Mr. HERBERT. I do not remember the percentage.

Mr. MANN. It was stated to me last summer by a railroad auditor—but who I thought was mistaken at the time—that the intrastate commerce would amount to over 60 per cent.

Mr. RICHARDSON. My information was that it did not exceed 15 per cent.

Mr. BARTLETT. I think you will find in the report of the Interstate Commerce Commission of either 1898, 1899, or 1900 that the interstate commerce is over two-thirds. That is what they reported to Congress.

Mr. MANN. That was my impression, but this gentleman who was well informed as a railroad officer said that it was over 60 per cent.

Mr. HERBERT. That question of the proportion between interstate and intrastate commerce is a matter of importance only to this extent, that an answer to it would show that the jurisdiction which you exercise over interstate commerce is very important. I think that is all that the answer would show.

Mr. RICHARDSON. That is all it is intended to show.

Mr. HERBERT. The question was asked by the chairman whether the Government—this Congress—would not have the right, in regulating commerce, to fix conditions and to say that commerce shall not be regulated, it shall not be carried on—that is, interstate commerce—excepting upon this condition or that condition. My answer to that is that your power to fix conditions is no broader, not a bit, than your power to enact a straightforward law.

You can not do by indirection what you can not do directly. If you have no power to enact that a given contractual relation shall be entered into between A and B, then you have no right to enact that they shall not do business unless they make such a contract, because then you would be doing just exactly what the courts have always said no legislative body can do. You will have exercised power by way of fixing conditions that you could not exercise directly. I think that is the answer to it.

The Constitution of the United States divided the jurisdiction between States and the Federal Government when it said that the Federal Government, that Congress, shall have jurisdiction over interstate commerce, jurisdiction over commerce between the States and foreign commerce. There was a grant of power to Congress, and that granted all the power that was over interstate commerce. All the power that the State had over that subject-matter was granted to Congress, and all the power that it did not grant over commerce was held in its own hands, and that is the power over intrastate

commerce; and one is just as complete and as absolute as the other. Both of these jurisdictions are subject to whatever other constitutional provision may bear upon them. There is no constitutional provision that I know of that bears upon either of them—that is, in the Federal Constitution—excepting the fifth amendment, which applies to the Federal Government, and the fourteenth amendment, which applies to the States.

There is a curious contrast between the circumstances under which these two similar provisions were adopted. In the first place the States, when they were forming the Constitution, were afraid of the General Government—afraid to trust it with too much power, and therefore they refused, some of them at least did, or enough to have prevented the Union from being formed otherwise, to ratify the Constitution without these twelve amendments. The fourteenth amendment contained the provision: "Nor shall any State deprive any person of life, liberty, or property without due process of law."

Mr. BARTLETT. Mr. Jefferson says that while they did not refuse to ratify, the understanding tacitly was that these amendments could be offered in the next Congress, and it was done. He said that when the Constitution was submitted to him—he was abroad at the time and took no part in the Congressional convention—and that they suggested some of these amendments, and they were passed at the first Congress with that tacit understanding.

Mr. HERBERT. I think they were all passed, every one of them, before Rhode Island was admitted, and before North Carolina came into the Union, so that my proposition is correct, the Union would not have been formed as it was without these amendments. It was understood by all of the States, when they were adopted, that something of the kind would be adopted. At any rate the fifth amendment was adopted at the very beginning, and it was applicable to the Federal Government.

The States being afraid of the exercise of power by the Federal Government, said: "Nor shall life, liberty, or property be taken without due process of law;" then we went on, and there finally came the great conflict between States rights on the one hand and Federal construction on the other—the civil war. The fourteenth amendment was proposed while some of the States were practically out of the Union—that is to say, the Congress said: "We are afraid to let you come back here without some amendment that will limit your power in the future, and we are not going to let you in unless you will adopt these amendments," and they did adopt the fourteenth amendment before they came in. So, I say, in this case, the Federal Government was afraid of the States, and it put that same limitation on the States. They copied it from the fifth amendment: "Neither life, liberty, nor property shall be taken without due process of law;" so that the provisions are practically identical; and these two provisions are the only limitations in the Federal Constitution, so far as I know or can think of now, upon the power of the States or the Federal Government. You have got the same power that the States have, you have the same power over interstate commerce that the States have over intrastate commerce, speaking generally, and any State decision that applies to the power of the State government over intrastate commerce, will likewise apply to the power of this Government over interstate commerce. I think the decision of the

Virginia court of appeals is in point, and the Massachusetts case is in point.

Mr. BARTLETT. May I interrupt you? I was not here when Judge Payson called attention to the Virginia court of appeals case. Have you got that case there?

Mr. HERBERT. I have not.

Mr. BARTLETT. Did they decide that the question of constitutionality as governed by the fourteenth amendment?

Mr. HERBERT. Not in that case; the fourteenth amendment was not involved.

Mr. BARTLETT. Did they decide that?

Mr. HERBERT. No; I don't think they did, because in every State constitution there are similar provisions about life, liberty, and property not being taken away; and there is one good reason why—I don't know whether the decision gave it—a State could not force one railroad to have contractual relations with another—that it would be taking away the natural liberty of the person, the corporation—the corporation is a person.

Mr. BARTLETT. Do you think a corporation has an inherent right to natural liberty?

Mr. HERBERT. Yes, sir; liberty of that kind, yes—liberty to contract. I think it would apply to liberty to contract. You can not compel a corporation to contract unless you reserve that power in the charter, any more than you can compel an individual to contract with another.

Mr. KENNEDY. But two connecting lines, making a line over which the consignee sends his goods—the railroad that takes them and carries them to the connecting point, when it delivers them from the other line—must be held to be agent for the consignee, and the other line must pay; so that there is some sort of relation within the statute and by law between the consignee and both of those lines. They occupy at least a contractual relation with the consignee.

Mr. MANN. Well, I didn't know but what you had examined it.

Mr. HERBERT. I did not consider that particular point.

Mr. KENNEDY. There is another clause of the Constitution that gives to citizens of the several States all the rights, privileges, and so on, of any particular State. That is not the language, exactly; but could a railroad in any one State refuse to take goods that were consigned by a citizen of another State?

Mr. HERBERT. Under that provision, that being a common carrier in, say, the State of Alabama—

Mr. KENNEDY. Suppose a citizen of Texas, by means of a connecting road that goes into the State of Alabama, consigns goods over that road. It would be compelled to carry them, would it not?

Mr. HERBERT. It might be possible, Mr. Kennedy, that the tenor of that provision would compel a road, if it was a common carrier in the State of Alabama, to carry goods also for a citizen of the State of Texas; that is possible.

Mr. KENNEDY. In that sense, when a State charters a road, it acts as the agent of the whole American people, and not of the people of the State.

Mr. HERBERT. I do not see the value of these questions directly upon the point at issue, as to whether or not the Government has a right to make one railroad become the banker for another.

Mr. HERBERT. Of course they do.

Mr. KENNEDY. They are compelled by law to take it.

Mr. HERBERT. I don't believe, Mr. Kennedy, that the Congress of the United States has any power to create interstate commerce; they can regulate it.

Mr. RICHARDSON. Right in that connection, where Congress has not the power to direct the contractual relations between the two common carriers, would not the doctrine come in that if one of the common carriers refused to make those relations, would not the common law, inasmuch as the common carrier held itself up to public business, require the common carrier to transport that freight?

Mr. HERBERT. I do not believe that you can compel a railroad company to enter into interstate commerce unless it desires to do so.

Mr. MANN. It is your opinion that the operation of the railroad-rate law enacted at the last session, authorizing the Interstate Commerce Commission to establish through rates, is unconstitutional?

Mr. HERBERT. I think it is constitutional. Certainly, when applied to railroads that are already in interstate commerce, if it went to the extent of asserting that it could compel railroads to engage in interstate commerce that were not already engaged in it.

Mr. MANN. But it compels railroads to enter into contractual relations.

Mr. HERBERT. I do not think so. They have already entered into contractual relations when they agree to transport for each other.

Mr. MANN. The bill, I believe, has authorized the Interstate Commerce Commission to establish through routes, although the railroads themselves may decline to do so, as they have in some cases.

Mr. HERBERT. I would not like to express an opinion upon that question.

Mr. KENNEDY. I do not think there is any sensible reason why we should make any such law. I think the passenger would be fully protected if he can have his ticket redeemed by the road issuing it.

Mr. HERBERT. I can see that under certain circumstances a railroad in a State could be bound, whether it wished to do it or not, to carry for another railroad in another State, and therefore involuntarily engage in interstate commerce. But even if I conceded that, it does not concede the rights that are asserted in the bill before you, particularly the Sherman bill, the right to make one railroad redeem the tickets that have been issued by another.

Mr. MANN. I don't think that any time has been wasted in discussing that point, but on the question of the rights of one railroad to accept interchangeable mileage tickets issued by another, that is another proposition entirely.

Mr. HERBERT. It is true that some of the bills here, I believe the bill of Mr. Kennedy, confines the redemption to the road that issues.

Mr. MANN. Mr. Sherman himself stated that that was his own idea.

Mr. HERBERT. Then we need not discuss that question.

Mr. MANN. No.

Mr. KENNEDY. So far as I am concerned you need not, because I do not think there is any necessity for any such drastic regulations as that. I do not think there can be any reason given for it; it is too extreme.

Mr. HERBERT. Whatever may be the bearing of these questions which you have propounded to me, some of which I did not anticipate, I don't know that I am able to answer them satisfactorily to myself. As I understand these decisions, first, by the United States Supreme Court in the case which you all remember—I do not remember the name of it now—that no State had a right to sell to one person, who was able to pay for it, a thousand-mile ticket, and thus prefer him to other people who were not able to pay for it.

Mr. BARTLETT. That is the Michigan case, but that was the construction of a State statute, however.

Mr. HERBERT. That was the construction of a State statute, but the particular principle laid down by the court in the Michigan case, it would seem to me, would cover the proposition in all these bills, and the decision of the Virginia court of appeals is also precisely, it seems to me, upon that point. But I go on now upon the supposition that it is in your power to avoid the constitutional objections that have been raised and decided by the courts as conceded, inhibiting 1,000-mile tickets as provided for in these bills, and that possibly you may avoid the force of these cases by a straight 2-cent rate, applied universally or to zones. Gentlemen, if you have that power it is an immense power. The greatest railroads of this country would be subject to it, and the most insignificant, the smallest, and the weakest would also be subject to it, and these have a right to claim your protection, your careful consideration. Have you the knowledge that would justify you in entering upon the Herculean task of framing a 2-cent bill, or any bill like it, that would apply all over the United States? You have spent here so far, I think, about sixteen hours in the consideration of this question. You probably will not have during this session more than sixteen hours more.

If you take that time—16 hours more—from your other and varied duties, and devote it to this question, will you be able to get all the information that would enable you to be just and fair to all of these railroads, the strongest as well as the weakest? Gentlemen, the officials who represent these roads, some of whom have testified before you, have spent their lives in the study of this question. Mr. Hardwick, who yesterday testified before you, I knew as a young man twenty-five years ago, when he first entered this service. He has been studying that matter from that time up to this. I have studied too, as hard, perhaps, as he has, but in other lines. I would not undertake to say that I could judge of what would be fair and just to a railroad as well as Mr. Hardwick, as, although during my life I have studied a great deal more than he has, because my life has been much longer; and I do not think that you gentlemen could say, any of you, that you are really experts on this question.

The question has been asked here, once or twice, as to whether or not the railroads have not been frequently mistaken; whether it would not be better for them to reduce rates more rapidly than they have, on the ground that a reduction of rates increases travel. The most familiar illustration of this principle that I know of, and the one which perhaps has had the greatest effect on legislation, was known as the Rowland Hill bill, which, I believe, was in the Parliament of Great Britain. At any rate, whether I have the facts or not, Rowland Hill was the great mover in the matter, and the question was whether

the postage in Great Britain could be brought down from the high rate at which it was (something like half a shilling) to a penny—whether it was possible to reach penny postage. The contractors said not. Parliament insisted that it was possible. One reduction after another was made, and, finally, Great Britain reached penny postage, and it proved that the Parliament was right. The amount of mail matter increased so rapidly that penny postage was found more profitable than a higher rate. Our Congress took up the same idea, and acted upon it, but we overworked it. I can recollect when the postage was 10 cents for 400 miles, and 5 cents for under that. But there came reductions, first down to 3 cents and then down to 2, the point where it is now.

But it was found that it still remained profitable; it was a good thing for the country, a good thing for the people, and Congress carried on this good thing until it became a great burden on the Government. They have reduced the cost on mail matter—that is, second-class matter—so that now every year you have to appropriate millions of dollars for a deficit in the postal appropriation. The penny postage idea has been overworked.

Now, do you not suppose, gentlemen, that these railroad men have in their minds all the time all these examples? They have been striving to reach, what Judge Payson the other day very aptly called, the revenue point. What is the revenue point? This question would imply that the railroads do not know and that you do. They are studying all these examples; and we had testimony here the other day that the Chesapeake and Ohio, when it found that at a certain point on its road it was not competing successfully with the trolley roads, undertook to compete with them. They made the experiment, tried it for a year—perhaps for two years—and found it could not be done; that it was impossible to do it. Then the question was asked here whether it would not have been better if this railroad had prevented the building of these trolley lines by making this low rate between those points beforehand. The answer to that is twofold. One, that if that railroad had kept up that general rate along that 10, 15, or 20 miles, or whatever it was, they would have been obliged to extend it eventually along the whole line. The other was, that on certain classes of travel it is impossible for railroads to compete with trolley lines. A trolley line will take up a passenger at any place in the street, carry the passenger to any street crossing outside of the city; and, then, the trolley roads are not as expensive to construct or maintain, and not as expensive to operate.

Mr. ADAMSON. I suppose you heard the chairman the other day ask a witness if he had thought of the question of the graduated arrangement of rates. Now, I appreciate as fully as you do the difficulties on your road and certain other roads of a similar character which run through a similar country, and I was extremely conservative about consenting to legislation regulating the railroads, because I feared that the brunt of it would fall on those particular sections and endanger them, and I thought those railroads were trying to develop the country as well as build up themselves. Have you thought about the question that the chairman asked as to whether or not the roads could arrange to accommodate the rates to the varying conditions in the different sections of the country?

Mr. HERBERT. I alluded to that a while ago, in speaking of the difference between roads in the same zone.

We have some concrete examples here before us. Take the State of Ohio, Mr. Kennedy's State. We understand that a 2-cent rate bill has been passed there. If there is any State in this Union that is homogeneous, that is everywhere a populous State, it is Ohio. Mr. Kennedy and Mr. Hardwick differed the other day about which was the most populous and best portion of Ohio. Perhaps Mr. Kennedy and a citizen of almost any other portion of Ohio would differ about that. I am alluding to this only for the purpose of showing that Ohio is a great State without any great mountain ranges in it, no swamps, no arid land, and therefore if there is any place in the world where a 2-cent straight rate everywhere would apply and do exact justice it would be Ohio, and yet we find the figures are that the effect of this 2-cent rate in Ohio has been to bankrupt some roads, or to hurt at least one. Perhaps that is not a very glaring example, perhaps the injury that has been done to that one road or two roads as the case may be, is not very serious. How that may be I do not know. But even this result shows how difficult it is to make a uniform rate apply to different roads when we take this State, in which every county was represented in the legislature, every section of the country through which any road ran. The Ohio legislators must be presumed to have had knowledge of the situation before them; they had sources of information as a local government in that State which you could not possibly have as to the whole United States. And yet the effect of the act which they passed was to benefit some roads and injure others. If that was the case in that one State, how much more would it be the case, how much greater would be the different effects of a 2-cent rate, or of any other straight rate that might be fixed as a maximum to operate over the whole United States, or even in different zones.

Take another case. In the case of *Smythe v. Ames*, decided in the Supreme Court of the United States, I think is the greatest opinion that has ever been delivered by that body or any other on the question of interstate commerce. One of the questions raised was that the rates in Iowa were higher than they were in Nebraska, and these two States adjoined each other. Some of the roads that were before the court ran through two States, and the rates on the same road were different in the two States. What did the Supreme Court say about that? Here is the opinion upon that point, written by Judge Harlan (reads):

But they are not necessarily bound to give absolutely the same rates to the people of all the States, for the kind and amount of business, and the cost thereof, are factors which determine largely the question of rates, and these vary in the several States. The volume of business in one State may be greater per mile, while the cost of construction and of maintenance is less. Hence, to enforce the same rates in both States might result in one great injustice, while in the other it would only be reasonable and fair. Comparisons, therefore, between the rates of two States are of little value, unless all of the elements that enter into the problem are presented. It may be true, as testified by some of the witnesses, that the existing local rates in Nebraska are 40 per cent higher than similar rates in the State of Iowa. But it is also true that the mileage earnings in Iowa are greater than in Nebraska. In Iowa there are 230 people to each mile of railroad, while in Nebraska there are but 190; and, as a general rule, the more people there are the more business there is. Hence, a mere difference between the rates in two States is of comparatively little significance.

That is to say, Judge Harlan and the Supreme Court held in that case that in these two States which were side by side and in which the relations of the population to the square mile were as 190 to 230, the company was not bound to have the same rates; that it was justified in putting, and it was right and fair to put, the rates in one State with its 230 population to the square mile higher than in the other State that had 190 population to the square mile.

Now, then, to consider in that light some of the testimony that is here before you. Take the Seaboard Air Line. Here is a map of it [exhibiting a map]. If you gentlemen will look at it, you will see that those red lines represent the Seaboard Air Line. You will see that it runs down into the States of North Carolina, South Carolina, Georgia, Florida, Alabama, and that it has more mileage in Florida than any other railroad. The population in Florida is 37 to the square mile. Mr. Hardwick told us yesterday that if you would allow for the fact that the large portion of population down there were negroes, consider the low percentage of traveling that they do, and compare it with the percentage of travel that the white people do, it would be fair to say that there are only 27 to the square mile in the State of Florida. In New England there are 430 to 450 to the square mile. There they have a 2-cent rate.

Now, according to this decision of Judge Harlan, if the difference between Nebraska and Iowa would justify a difference of 40 per cent in the freight charges, is it not astonishing that we can charge only 50 per cent more down here for through travel, for our maximum rate, than in New England?

Mr. MANN. You refer to the population of Florida. Is it not a fact that a very large proportion of the travel in Florida is by transients?

Mr. HERBERT. Yes.

Mr. WANGER. Is it not also true that a large part of Florida is not penetrated by railroad systems? The part in which the railroads are located has a heavier population than the average.

Mr. ADAMSON. I think the longest line in Florida is one that the transients do not patronize—from Jacksonville west to Chattanooga.

Mr. HERBERT. The tourist travel to Florida goes down upon the east side generally, some going down to Tampa, but most of it to St. Augustine. This travel is divided between the three roads that are bidding for southern trade generally, the Southern, the Atlantic Coast Line, and the Seaboard Air Line. Mr. Ryan testified here that this Florida tourist travel that we are competing for does not pay expenses. We are trying to get our share of it. Ours is an enterprising road, but we have to have expensive trains, and we have them in order to compete with these other railroads which have expensive trains. We put them on and we run them at a loss; so that does not help out the case against the road and does not militate against the comparison I am seeking to make. That kind of travel does not help us out.

Mr. MANN. If it is a fact, of which I have no doubt, that the travel from the North to Florida is carried by you at a loss, do you think that you ought to continue that and make up that loss out of the local people in Florida in intrastate travel there?

Mr. HERBERT. I am coming to that point in the course of my argument.

Mr. ADAMSON. The argument here in justification of these fine trains in the North is that those rich fellows could afford to pay. You ought to make millionaires pay for that class of trains, on that argument.

Mr. HERBERT. We have found that millionaires are about as sharp on a bargain, probably a little sharper, than the people who are not millionaires.

Mr. ADAMSON. The justification for those trains was that the people who patronized them were people who could afford to do it.

Mr. PAYSON. But that only applied to trains given a special and additional increase in speed, such as the Twentieth Century Limited, on the New York Central and Lake Shore Railroad, and the Pennsylvania special; not to trains to which everybody had access.

Mr. HERBERT. If we could find a way to make those trains pay we certainly would do it. We have not been able so far to do it.

I was quoting from that case of *Smyth v. Ames*, which I said I thought was perhaps the greatest of our railroad decisions. I would like to quote another extract from it. This extract relates to the power of the State, and is to the effect that it can consider only domestic rates. I will read it. [Reads.]

* * * The State can not justify unreasonably low rates for domestic transportation, considered alone, upon the ground that the carrier is earning large profits on its interstate business over which, so far as rates are concerned, the State has no control. Nor can the carrier justify unreasonably high rates on domestic business upon the ground that it will be able only in that way to meet losses on its interstate business. So far as rates of transportation are concerned, domestic business should not be made to bear the losses on interstate business, nor the latter the losses on domestic business. It is only rates for the transportation of persons and property between points within the State that the State can prescribe; and when it undertakes to prescribe rates not to be exceeded by the carrier, it must do so with reference exclusively to what is just and reasonable, as between the carrier and the public, in respect of domestic business. The argument that a railroad line is an entirety; that its income goes into, and its expenses are provided for out of, a common fund, and that its capitalization is on its entire line, within and without the State, can have no application where the State is without authority over rates on its line, and can only deal with local rates and make such regulations as are necessary to give just compensation on local business. (*Smyth v. Ames*, 169 U. S., 530-542.)

Now, that asserts the proposition that a State court or a State commission, in dealing with domestic commerce, can consider only domestic commerce, and can not consider the interstate commerce. Each must be considered by itself. Each forum must confine itself to matters within its own jurisdiction. The converse of that is true, and that is, Congress can consider only interstate commerce, interstate traffic, and can not consider domestic traffic. But here, in the case of the Seaboard Air Line Railway, the evidence that you have before you relates to all the income of the roads from interstate commerce, and intrastate commerce as well, and that evidence is that during the last six months, its total income being taken into account, there was a deficit in the outcome of the road, and that I want you to bear in mind.

Mr. KENNEDY. Suppose this committee should make an amendment to these bills that would say: Fix the rate on all roads having gross earnings of over \$25,000 a mile of track at 1½ cents per mile;

those having gross earnings between \$15,000 and \$25,000 per mile of track, 2 cents per mile; those having between \$10,000 and \$15,000 gross earnings per mile of track at 2½ cents, and those having gross earnings of less than \$10,000 per mile of track, 3 cents?

Mr. HERBERT. Mr. Kennedy, would you make those gross earnings apply to interstate or intrastate traffic, or both?

Mr. KENNEDY. Make it apply to the gross earnings.

Mr. HERBERT. Then, if you did that, it would possibly be subject to the objection under this clause that I have just read, that Congress is basing its action—

Mr. KENNEDY. It would simply classify the roads. It can classify the roads in any way it chooses.

Mr. ADAMSON. If Congress passes a bill, it does not have to specify upon what it bases its action.

Mr. KENNEDY. It would simply classify the roads, which it can do by any other form of words.

Mr. HERBERT. It seems to me that if you made that classification on that basis, it would possibly be subject to the objection—

Mr. KENNEDY. It would not affect your line.

Mr. HERBERT. I don't know that it would not. We would be very glad, if any legislation is passed, to be let out of it, of course.

Mr. MANN. If the Supreme Court of the United States should hold that a rate fixed by Congress, and the validity of it, depended upon whether it was confiscatory, how can the Supreme Court determine that based merely upon interstate commerce without considering intrastate commerce?

Mr. HERBERT. Just exactly as in the Nebraska case that I have just read to you. The Supreme Court decided that case, turning on confiscation, entirely upon the evidence before it in relation to interstate commerce.

Mr. MANN. You were quoting from the opinion of Justice Harlan. That did not have very much to do with the actual decision in that case.

Mr. HERBERT. I know of no case in which the contrary of this has been ruled.

Mr. MANN. If they can not determine upon the gross earnings of the road, how can they declare the rates that we fix confiscatory? It is not confiscatory unless it confiscates the property, or tends to. They can not determine that by determining one source of income without considering all the sources of income.

Mr. HERBERT. In answer to that question I will say that this was not an obiter dictum, because the testimony before the court there that the Nebraska rates were 40 per cent higher than the Iowa rates was relied upon as material to the issue, and they decided—and that testimony related entirely to intrastate commerce—on those facts decided that the rates fixed were confiscatory, and they did not consider the earnings of the road upon interstate commerce at all.

Mr. MANN. I did not want to stop to argue that case, I am entirely familiar with it.

Mr. HERBERT. That is my understanding of it.

Mr. KENNEDY. They held, as a matter of fact, that the Iowa rates fixed for Nebraska were too low.

Mr. HERBERT. They did.

Mr. KENNEDY. That decided no other question, excepting the question of fact.

Mr. HERBERT. It decided the other question, also, that was directly in the case, that the 40 per cent difference did not affect the question, because the circumstances justified 40 per cent higher in Nebraska than in Iowa.

Mr. KENNEDY. That is true, and that is simply a question of fact, not of law. That held that the sparse character of Nebraska made even that higher rate confiscatory. That decided no question of law excepting the main one.

Mr. BARTLETT. They decided in the case that it was confiscatory.

Mr. KENNEDY. That it was too low.

Mr. HERBERT. Look further at that case. The legislature of Nebraska had passed an act that applied to all railroads within the State equally. Those rates aggregated amounted to 29½ per cent reduction. There was an example of a straight cut like that which has been proposed in these bills, but it was a straight cut that applied only over Iowa. Even in that case the facts and figures before the court showed that the reduction did not affect all the railroads alike: that all of them, except one, would be deprived of earnings over expenses, but that one or more perhaps would earn expenses.

There was another illustration of what the straight cut would do. Gentlemen, a good many of you recollect the Morrison bill. I do not believe any of you who are now here, excepting Mr. Payson—

Mr. ADAMSON. Suppose that either you voluntarily or Congress compels you to put in a 2-cent rate in interstate commerce. That would apply to all tourist transportation such as you were speaking of a moment ago as developing Florida. Would it not to some extent palliate the demand in the various States for the local rates?

Mr. HERBERT. I am rather afraid it would aggravate it.

Mr. ADAMSON. Isn't it a thing liable to hurt you—this local action of States? Would it not be better for you to accommodate through travel—tourist travel—in interstate commerce, and avoid putting in a local rate, so that you can get the 3 cents on local travel?

Mr. HERBERT. My idea is that it would not have the effect of palliating the demand, but that the result would be precisely the reverse; that the State legislators who are in favor of the reduction of rates would point to the fact that the Congress of the United States, considering the whole question, has decided that on interstate commerce passenger-traffic rates were too high, and had reduced them. They would say it follows that these State rates are too high, because they are now rather more than on the interstate traffic. The fact is, we are threatened with reduction in both directions.

Mr. KENNEDY. So far as travel is concerned, it would be rather difficult to hold that any passenger travel in a State was not interstate commerce. For instance, a drummer engaged for a New York house lives in a State. He travels from one town to another in that State in that business and never goes out of the State. That would be interstate commerce. He is engaged in New York on business carried on in New York. His travel is in the State, but in a business that is distinctly interstate commerce. It would be impractical to have two rates, for if we fixed one rate it would have to control the State rate.

Mr. HERBERT. It would go far toward controlling the State rate.

Mr. ADAMSON. It depends upon whether you do it or the Government does it. You can voluntarily reduce these rates; but if the Government goes into that business it must make it equal between all classes.

Mr. HERBERT. I do not see any necessity for making the rates straight everywhere.

Mr. ADAMSON. We have either got to do that or adopt some system of graduation, such as we have been talking about—a classification.

Mr. HERBERT. The railroad companies are engaged all the time in such reductions. We had in Florida rates as high as 5 cents a mile, but even they did not pay.

Mr. ADAMSON. Yes, I remember 6 cents, and it did not pay. The road went into bankruptcy.

Mr. HERBERT. A case came up in the supreme court of Florida. About twelve or fifteen years ago a law was passed in Florida reducing passenger rates to 4 cents on all roads. The roads concluded to make a case, and they did it. This case arose on a railroad that ran from Pensacola to River Junction. The State went before the court to recover penalties. The plea of the road was that at that time, with the rate of 5 cents for passengers, which it was charging for freight and passengers, it did not make running expenses. The counsel for the State, the attorney-general, did not see proper to take issue on the plea, because he knew the railroad could prove it; it was a fact; therefore he simply demurred to it, and let the case go off on that. The supreme court of Florida held that that law was unconstitutional, basing its decision upon the provision of the 14th amendment, that it was taking away property without due process of law. Our rates have gradually been reduced from 6 to 5 and to 4 cents, and are now down to 3 cents a mile. They will be reduced still further whenever we feel that we can do it. But if we are compelled to do it as to our interstate commerce by an act of Congress, that will not hold in check the State legislatures, but will rather set them on, because, as I said, they can not answer to their constituents for not reducing intrastate-commerce rates if Congress should reduce interstate commerce rates. Anyway, our condition is bad enough.

Adjourned at 12 o'clock noon.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Monday, January 28, 1907.

Committee called to order at 10.40 a. m.

**STATEMENT OF HON. HILARY A. HERBERT, REPRESENTING THE
SEABOARD AIR LINE RAILWAY SYSTEM—Continued.**

The CHAIRMAN. You may proceed, Mr. Herbert.

Mr. HERBERT. Mr. Chairman and gentlemen: In my previous discussion of these bills I attempted to show that it was impossible, considering the difference in these railroads, the difference in the wealth of the country through which they pass and the amount of freight and passengers they carry as well as their situations generally to

make a horizontal rate that will apply to all or a horizontal cut in the maximum rates.

You will remember, Mr. Chairman, the fate of the Morrison bill. There was an attempt to make a horizontal cut in the tariff applicable to all rates. That bill was really laughed out of court. The ground taken by the opponents of the bill was that while the cut operated horizontally on all of the different items of the tariff the effect upon the different industries of the country would be entirely different; that some of the industries would be crippled while others would not be affected. No one has any vested interest in a tariff for a tariff rate, but with railroads it is different. They all have vested interests in their property which is immediately effected, and it is absolutely impossible with any fairness, as I have attempted to show, to make a horizontal rate or any rate at all that will apply equally to all of the roads.

I was asked the question by Mr. Kennedy, I believe, as to whether or not it would not be fair to make a classification of roads according to the amount of passengers carried and the amount of freight carried. On the spur of the moment I answered that I thought possibly it might be unconstitutional for the committee to consider, in classifying the roads, the freight as well as the tariffs. A little reflection and some examination of the authorities has, however, convinced me that Congress in legislating on questions of taxation, and by a parity of reasoning on questions of railroad rates possibly and probably has the authority to make any classification that is reasonable. But I said on a previous day the question arises, have you the information and have you the time to get the information, that would enable you to enter upon the enactment of a general bill fixing tariff rates by any classification you might agree upon during the few hours that you have devoted and that you can spare from other duties to devote to that question. It does not seem to me that you have.

The question was also asked here—probably of a witness—whether the development of the South had not in all probability been impeded by the high rates charged by the railroad companies heretofore for freight and passengers; and I wish to address myself this morning particularly to that question. And as the system that I represent is essentially a southern system running through the heart of the eastern portion of the Southern States, I wish to call attention to what the railroads have done toward the development of the South within the last forty years, or since the close of that great crisis in our national existence, the civil war.

In order to do that I will endeavor to present to you a picture of the condition of the South at the close of the civil war, and in doing so I do not wish to stir up, or if I know it, to say anything calculated to stir up, the sectional prejudices which are now so happily buried. The time has come—and thank God for it—when ex-Confederate and ex-Union soldiers can meet, as they have often met, in memorializing General Grant, the great soldier of the Union; and when also people who sympathized with the South, and those who sided with the North in that great struggle, can meet, as they did recently all over the South, in celebrating the centenary of the birth of Robert E. Lee, the greatest soldier of the South.

But it is right and fair to the South and to the railroads who are doing business in the South, when you are considering what they

have done and how much they have contributed toward the development of the South, to take into consideration the condition of that portion of our country at the close of that great war.

It is not going too far to say that conditions in the South were about as bad in 1865 and 1866 as they were in Central Europe after the great Thirty Years' War of two centuries and a half ago. Of course our civil war had not been conducted on such brutal lines as was the Thirty Years' War. There were not as many people murdered; the rules of civilized warfare were all observed in the civil war by both sides.

But it remains true, as General Sherman said, and as he illustrated in that war, that all "War is hell," and that the war left the South in a most pitiable plight. There were many cases in portions of that territory that had been overrun by sections of both armies of absolute starvation, well authenticated cases. That starvation sometimes took place among the blacks, but more frequently among the whites in the mountainous regions of the country. The Government of the United States generously did a great deal to prevent this through the Freedman's Bureau; it distributed rations everywhere when they seemed to be needed, preventing many cases of starvation. Nevertheless, the general situation could not be relieved even by the strong arm of the General Government, aided, as it frequently was, by voluntary contributions from Northern people.

I said that the conditions were almost as bad, if not as bad, as they were at the close of the Thirty Years' War in Europe. For one thing, the freeing of the slaves had totally demoralized our labor, changing our labor system. In many places all provisions, all stock, all cattle, had been consumed by the armies, one or the other. Thousands and hundreds of thousands of bales of cotton had been destroyed, some by the Federal army, and much by the Confederate army. And that cotton was the only source we had to look to for money after the close of the war. All the currency in the South was gone.

Bank stock, bank notes, the accumulation, or what ought to have been and would have been the accumulations of those people who did not go into the war, in money for four years, were all swept away, and we had to get money where we could to begin operations again upon our farms and as merchants. Factories, we had none left. There was no place to get money excepting at the North. We did get that money on credit, but we were in a bad plight to borrow money, and therefore capitalists charged high rates of interest.

Mr. ADAMSON. Character was the only basis.

Mr. HERBERT. Yes, excepting the soil that was left us, and the natural resources, too, which were very great. But we got credit here and there, paying high rates of interest for money; and I know it to be true that for several years after the close of the war the farmers and planters got advances, mortgaging their land and crops, at a rate of 4 per cent a month. They generally got their supplies as they needed them, but they were lucky if they could get money at 4 per cent a month on six to eight months' time. That we had to do in order to get along at all.

Now, we have figures to show from the census of the United States what the losses were. The census of 1860 gave the value of all the property in the Southern States at \$5,200,000,000. In the meantime,

you will remember that we counted in the census of 1860 the value of the slaves, which, of course, did not enter into the census of 1870.

When this census was taken five years had elapsed after the close of the war, during which we had been trying to rehabilitate our industries. We had made five crops. We had built over 3,000 miles of railroad. The plow stock and other property bought with the money we had borrowed was counted in the census of 1870. And yet the difference between the census of 1860 and 1870, as to the value of property of the South, was \$2,200,000,000. That is to say, we had lost 60 per cent of our values in those ten years, estimating the value of our property, even after we had been at work for five years.

Now, gentlemen, think what that means. When we were in this condition just after the close of the war a shrewd Yankee advertised that he would give the secret of making a fortune for 25 cents. Some Southerner, who was anxious to know what that secret was, and who had gotten hold of a quarter, sent it to the advertiser and received this answer: "Work like hell, and don't spend a red." Well, we went to work and we did work like hell, and we did not spend money because we did not have it. But think of the burdens that we had to carry after all these losses.

Mr. RICHARDSON. Can you give us right there the proportionate wealth existing between the States of the South in 1860 and the New England States? My recollection is that the South exceeded in value that of the New England States about \$700,000,000, and at the close of the war, in 1870, the value of the wealth of the South had dropped down to about \$7,000,000,000, and the wealth of New England had gone up to \$12,000,000,000 or \$13,000,000,000, exceeding us by about \$6,000,000,000 at that time. That is my recollection about the figures, and if that is true it will show in what a depressed condition we were, and how the other sections of the country had advanced.

Mr. HERBERT. I have no figures as to New England, but I have here some figures on that general proposition of comparing the increases in the North with the decreases in the South. I will come to that a little further on.

Now, we went to work when the conditions were as I have stated, and I was about to call your attention to the burdens we had to bear. Not only did we borrow this money from the North on which we went to work, at these high rates of interest—and it was natural that high rates should be charged when it was uncertain whether that money would be paid back or not—but nearly every man in the South who had been in good condition before, and who had a desire to take care of his family, feeling that he could make a support while he lived, went into life insurance to provide for his family when he should die.

There never was such an era in our country or any other of life insuring. All the premiums on life insurance went North, and I can not calculate how many millions of dollars it was. And they have been going North, most of them, ever since. We have very few life insurance companies in the South. All the premiums on fire insurance also went to the North.

Mr. LOVERING. And abroad?

Mr. HERBERT. And abroad.

Mr. ADAMSON. You did not take that good advice that you got for a quarter, did you?

Mr. HERBERT. Yes; we did. We were working right along all the time.

Mr. ADAMSON. You said the advice was "never to spend a red."

Mr. HERBERT. We had to spend a little; we could not take that advice literally.

Then we had our share of the expenses of this Government to bear, and, as you know, the expenses of the Government are derived principally from internal-revenue and tariff taxation. We paid our share of that. People have to pay upon what they consume, and we had to consume food, clothing—had to have the necessities of life. Of our pro rata share of the expenses that we paid to the Government, what did we get back? What was expended in the South? Simply post-office expenditures, and Department of Justice expenditures. Beyond that the money that was taken by taxation from our people went naturally to the North.

Mr. ADAMSON. By paying what you did for what you bought you lost from a third to a half that did not go to the Government.

Mr. HERBERT. I am not entering into that question. I think one section has about as much to complain of in regard to that as another. But as to the expenses of the Government, as I say, we paid our share of it, and all the money that was needed to build up the ships of the Navy, to equip the Navy and to feed it, was expended in the North. All the money for the Army, to equip and arm and feed and clothe it, was expended in the North.

Mr. LOVERING. Did not some of the money find its way to the South for supplies—cotton, etc?

Mr. HERBERT. For cotton, yes; nothing else that I know of.

The largest expense we were put to was an expense of which we can not complain. But I am only speaking of the natural causes of the drain of money from us. That was pensions.

A very small proportion of the money that was drawn from us by taxation, and that went to pensions, was expended in the South. For the forty years past, if you take an average of the appropriations for pensions, which runs up from about \$3,000,000 or \$4,000,000 just after the close of the war, to eventually \$160,000,000, and is now away up above \$100,000,000, perhaps you might say that \$60,000,000 a year would be a fair average of the amount of money appropriated for pensions, and of which we paid our share. And if that share could be apportioned, say as one-third, then there was \$20,000,000 a year for forty years, or \$800,000,000. That is the wealth of a great big State even at the present day. That money was drained from us year after year, and expended in every town and village throughout the country everywhere in the North.

Now, carrying these burdens, let me call your attention to what has been really accomplished. I think one of the marvels of the world is the rehabilitation of the South and its present prosperity. My proposition is that this thing could never have happened but for the railroads. It was the railroads working with the people and the people working with the railroads that has enabled us to carry all these burdens and become to-day, perhaps, the most rapidly increasing portion of this country, as prosperous as any other part of it, as I know you all rejoice to feel.

I had some tables here showing the amount of railroad mileage for the whole period. I had them in my office, but, unfortunately, I

did not bring them. But the railroad mileage has increased about 8 or 10 fold within that time. The most rapid increase had been since 1880. Then we began to get on our feet; then we had money to invest in new enterprises, in iron manufacturing, in cotton manufacturing. And let me show you some of the results. Here are the figures compiled by the *Manufacturers' Record*, of Baltimore, a journal which is devoting itself, and has devoted itself for many years, to southern interests especially, but not exclusively. Here is a table which I find there of the increase in values in the South during the twenty-five years between 1880 and 1905. The capital invested in cotton mills in the South in 1880 was \$21,000,000. In 1905 it had gone up to \$225,000,000.

Mr. LOVERING. Mr. Herbert, is it not fair to say that a large part of that capital, a great deal of it, was northern capital?

Mr. HERBERT. A good deal of it is northern capital. I am glad to say that we have been able eventually to attract northern capital for investment. You could not send us money on reasonable terms at first because you were liable to lose a great deal of it, and you did lose a great deal of money that was sent down there. There were companies formed to loan money in the South, and a great many of the companies that first entered upon that experiment lost money. We did not get money from the North at first on reasonable terms.

Mr. ADAMSON. Why.

Mr. HERBERT. Because we could not pay these big rates—interest ate up our profits and more besides.

Mr. ADAMSON. Do you mean individual loans?

Mr. HERBERT. I mean individual loans, yes.

Mr. RICHARDSON. Isn't it a fact that Southern men had to show their own faith in their enterprises and develop them before they could secure northern capital?

Mr. HERBERT. That is just what we did.

Mr. ADAMSON. There never has been any danger of loss or failure to collect or realize on investments in any of the Southern States since our people have been permitted to run their States.

Mr. HERBERT. There have been, of course, some losses since that time, but things have been getting better and better all the time.

Mr. RICHARDSON. I do not think anybody blames northern capitalists for not investing down there at that time.

Mr. HERBERT. It was perfectly natural.

Mr. ADAMSON. All of your branch railroads were built mainly by northern capital, were they not?

Mr. HERBERT. Yes; but on that question I would like, first, to say that the railroads we had in the South during the war nearly all had to go into bankruptcy after the war. Very few of them did not.

Mr. ADAMSON. That was before northern capital handled them?

Mr. HERBERT. A good many of their bonds had been purchased by northern and foreign capital, and these capitalists were in control of many of the roads in 1865 and 1866.

Mr. ADAMSON. That voluntary conscription bought up these patchwork pieces of road, made up the system of railways down there, and then they were capitalized.

Mr. HERBERT. I am going into that later.

Mr. ADAMSON. And in that connection I want to say that the present railroads down there are operated by northern capital.

Mr. HERBERT. They are very largely, and we are glad to have been able to attract it. But we were only able to attract the capital after we had shown, not only our faith in our resources, but our ability to develop them.

Take as example the iron interests in the State of Alabama. Mr. Thomas, a Pennsylvania iron man, knowing the vast mineral resources of that country, went down there very early after the war and bought up large tracts of iron and coal lands. We were rejoicing to think that a great ironmaster from Pennsylvania was to develop our iron regions. But he did not do it. He bought the land and let it stay there undeveloped; and we ourselves went to work with such capital as we could get and showed what we could do at Birmingham and in that region. And then it was, I will say to Mr. Lovering, after the Southern people themselves learned how by experiment to make iron, to combine the different ores and how to flux them—in other words, when we had shown to the world that we could make iron at a profit, then it was natural that the people of New England and of Pennsylvania and of the North who were unwilling to invest their capital in iron making in the South when they thought there was a great risk about it, were perfectly willing to help us, because then the future of our iron industry was a certainty. Since that time we have had, and are having now, a great abundance of capital, not only from our own resources, but coming from every section of the North.

Now let me read some more figures. The number of cotton bales that were used in the Southern cotton mills in 1880 were 225,000. In 1905 it was 2,163,000, nearly tenfold greater in twenty-five years.

Mr. CUSHMAN. What do you refer to?

Mr. HERBERT. This refers to cotton bales that were used in the Southern States.

The pig iron that we made in 1880 amounted to 397,000 tons. In 1905 it was 3,100,000 tons.

The railroad mileage had grown in 1880 to be 20,000, but in 1905 it had grown to 60,000 miles.

Farm products had gone from \$660,000 value in 1880 to \$1,750,000, in 1905.

As to petroleum, we made 179,000 barrels in 1880, and our production in 1905 was 42,195,802 barrels.

Mr. ADAMSON. Where is petroleum produced mostly?

Mr. HERBERT. A good deal of it in Alabama, and some, I think, in Texas and elsewhere. I know about that in Alabama in the neighborhood of Demopolis.

Mr. ADAMSON. But in the last few years most of it comes from Texas.

Mr. HERBERT. A great deal from Texas.

I will not read all of these figures, but will ask permission to insert a table in my argument in the Record for the purpose of showing those who may study this question how wonderfully the development has been in that country.

Facts in figures about the South.

	1880.	1890.	1905.
Capital invested in cotton mills.....	\$21,000,000	\$60,000,000	\$225,000,000
Number of spindles in cotton mills.....	867,000	1,712,000	9,205,000
Cotton bales used.....	225,000	546,000	2,163,000
Value of cotton crop.....	\$313,696,000	\$390,000,000	\$680,000,000
Pig iron made, tons.....	397,000	2,600,000	3,100,000
Coal mined, tons.....	6,000,000	21,200,000	70,000,000
Lumber products, value.....	\$39,000,000	\$90,700,000	\$250,000,000
Capital invested in manufacturing.....	\$257,000,000	\$659,000,000	\$1,500,000,000
Value of manufactured products.....	\$457,000,000	\$917,589,000	\$1,750,000,000
Value of exports.....	\$261,000,000	\$306,000,000	\$555,480,000
Railroad mileage.....	20,600	42,900	60,000
Farm products, value.....	\$600,000,000	\$773,000,000	\$1,750,000,000
Property, assessed.....	\$3,051,175,000	\$1,510,925,000	\$6,500,000,000
Capital invested in cotton-oil mills.....	\$3,800,000	\$12,800,000	\$64,600,000
Number of cotton-oil mills.....	45	119	780
Phosphate mined, tons.....	211,377	510,499	1,874,428
Coke production, tons.....	397,776	2,585,470	6,244,186
Petroleum, barrels.....	179,000	498,632	42,495,802

In a few cases in the table above, figures for 1904 are given in the 1905 column, the exact figures for the latter year not being available at the time this is written.

Mr. LOVERING. When you say "the South," what States do you include; where do you draw the line?

Mr. HERBERT. I include, I think, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Florida, Georgia, Mississippi, Arkansas, Kentucky, Louisiana, Texas, and Tennessee.

Mr. LOVERING. Not the Indian Territory?

Mr. HERBERT. Not the Indian Territory.

Mr. LOVERING. But that is a cotton-producing country.

Mr. HERBERT. Yes; but I think that while the Indian Territory may be included as a cotton State, it produces very little. The States I mentioned are included in these figures, and I will put them in precisely as they are. [NOTE.—An examination of the pamphlet read from would indicate that Oklahoma and the Indian Territory are included. H. A. H.]

Mr. BURKE. Are you going to put in a comparative statement of the amount of business done by the railroads between 1880 and 1905; and as to whether the rate decreased between those years and during that period, and in what proportion? The amount of business done?

Mr. HERBERT. I haven't those tables. They have not been furnished here, nor have I the tables; but I have the increased mileage during that time.

Now, these figures give you some idea of what the real development has been. But let us see what the railroads have had to do with that. I will discuss localities I am well acquainted with, those about which I know I am stating the facts. But to first go back a little and touch upon the relations that have existed between the railroads and the people.

There was a time just after the war when all these southern railroads were struggling to keep out of bankruptcy, and when the railroads, as I thought, did not treat the people fairly; did not give fair consideration to their needs. The reasons for the conditions the railroads found themselves in were—their rolling stock had been worn out and burned up, their tracks had been worn out, their bridges had been burned, and they had paid no interest on the bonds during the war; they could not do it. They had worked four years for

Confederate money; were bound to do it; and so, all of them were on the verge of bankruptcy.

At that time I was local attorney for the Mobile and Montgomery Railroad in three counties below Montgomery—between Montgomery and Mobile. Gen. Dan. Tyler, of Connecticut, had been sent down there by the bondholders and the stockholders to be president of the company, to see if he could not, with his great ability, keep the road out of bankruptcy. And he adopted the policy of not paying any debts that he could prevent being paid, putting them all off as long as possible; and not only debts, but all obligations, because the road needed all the money that it could take in and more, too.

So he instructed me as his attorney not to pay any claim against the railroad, but to fight everyone, even the cow cases; to make points and take them up to the Supreme Court, have them reversed—in short, to keep cases in court as long as possible. I followed that policy, and it furnished me a lot of business. But at the same time it incensed the people very much.

Mr. ADAMSON. They had mighty stubborn juries.

Mr. HERBERT. Yes; and these juries gave heavy verdicts when they had the least excuse, sometimes damages double and treble what they ought to give. I got tired of that, and said to him one day: "General, it seems to me that it would be good policy, in order to placate the people and the juries, and also keep from losing so many cases, if you would authorize me to pay up in plain cases and pay up promptly, without any suit." The old general turned to me—I was quite young and he was an old man—and said: "Well, sir, you are attorney for the road, are you not?" "Yes, general," I replied "and I know what that means; it means that I have no right to suggest a policy to you, and I will not do it any more." "You follow instructions," was his reply. I did follow instructions, and for a long time the relations between that road and the people were strained. The juries went for us every time they had an opportunity. But the old general, with his policy, could not keep that road out of bankruptcy.

It went in. Soon afterwards a road was built through the heart of the iron region, called the South and North, running from Decatur, Ala., to Montgomery; and another road, the A. and C., was built. These two roads crossed in a cornfield upon which now is situated the city of Birmingham. Then the Mobile and Montgomery road was amalgamated with the South and North, and with the L. and N., and a new policy was adopted. The managers did everything in their power to ingratiate themselves into the good will of the people by treating them absolutely fairly, appointing claim agents to go around and settle every claim on a fair, even a liberal, basis. New towns began to spring up, and the intersecting roads did everything they could to encourage the production of iron. Birmingham became the magic city. It now has about 100,000 inhabitants. Iron is being produced there at lower rates really than anywhere else I suppose in the United States or in the world. The railroads gave cheap rates to the North and to the East, and we send iron from Birmingham, not only to Philadelphia and to Boston and to St. Louis, but even to Pittsburgh; and not only that, when times were dull some years ago, and while we had no market in this country for our products, over 200,000 tons of pig iron were shipped, I suppose at a profit, across the ocean

to Liverpool. Railroad managers have steadily pursued the policy of giving every possible facility to the development of that country. Branch roads have gone out here and there from the trunk lines wherever there was an inviting field, wherever a prospector could convince the railroad authorities that new mines could be opened or new industries developed, so that there is now a perfect network of railroads around Birmingham. Still other railroad systems have sought that great center until now, counting both ends of the railroads that come in, there are at least nine or perhaps eleven entering Birmingham. That development, as I say, began very early. It has continued, and Birmingham is prospering now as rapidly as any other city.

But I have in mind a more recent instance. When I was in Congress, I represented among other counties that of Covington. Without transportation facilities, it was the poorest county in the district excepting one. It had no railroad in it. Twelve years ago the largest town in the county was the county site, Andalusia. It had between 250 and 300 inhabitants. The lands in that county could be bought at from \$1.50 to \$2 an acre. I was in Alabama recently, and was absolutely astounded at the result that has followed the building of two railroads through that county. Andalusia, instead of having 250 or 300 inhabitants, now has 4,000, and two other towns have sprung up in that county, each of them now having over 3,000 inhabitants. Lands have gone up in price to \$10 and \$12 an acre. And in that county where banking was before unknown and unthought of there are now six banks. That has all been within less than twelve years, and that development is brought about by railroads. And, gentlemen, there are many other counties in Alabama and all through the South that need to be developed by railroads just as Covington County has been within the last few years.

Mr. RICHARDSON. Isn't it a fact in that connection that Jefferson County, in which Birmingham is located, in 1870 paid the smallest amount of tax of any county in the State, and that it now pays one-sixth of the taxes of Alabama?

Mr. HERBERT. Those figures may be correct. Jefferson was certainly a poor county. As I was saying, there are many other counties in the State of Alabama, and in all the Southern States, that need development by railroads, and that will show when railroads are built into them just the same results that I have told you have followed from the building of these roads recently into the county of Covington. Take the railroad system that I represent. It is one of the three competing systems going down South, the Southern Railway, the Seaboard Air Line, and the Atlantic Coast Line. They are all in earnest, not to say fierce, competition. You had evidence here before you that these three railroads are each trying to get northern travel to and from the South, and are running splendidly equipped trains to and from Florida at really a loss.

Mr. ADAMSON. How much greater is the mileage of your road between here and Atlanta than the Southern Railroad?

Mr. HERBERT. I don't know what the difference is, but it would be somewhat greater.

Mr. ADAMSON. Fifty miles?

Mr. HERBERT. Probably so. Nevertheless we have to compete with the Southern for traffic to Atlanta, and we are competing all the time.

Mr. ADAMSON. Do they get to Florida points with as little mileage as the Atlantic Coast Line?

Mr. HERBERT. Some with less and some greater. We run down through Savannah and from Savannah on. There are parts of Florida to which we have the shortest line, and parts to which the Atlantic Coast Line is the shortest.

Mr. ADAMSON. Is your line the shortest line between here and Savannah?

Mr. HERBERT. I am not sure; I could not say about that. But whether it is shorter or longer, these roads are competing for this trade and the development of the South, particularly of the State of Florida.

Mr. ADAMSON. I had in mind the effect upon the longer road. If you put in effect a maximum rate, you would have to meet the rate between those points.

Mr. HERBERT. Yes; and I am glad that you asked that question because it brings to mind this point. Mr. Kennedy asked the other day about the feasibility of fixing graduated rates according to the amount of traffic per mile; and before he came in, I answered that examination had convinced me that the committee would probably have the right to do that, to make such a classification as seemed reasonable, and that any classification that was not reasonable would not be sustained.

But there is this to be remembered, that when you fix rates on one road at a certain grade, say 2 cents a mile on one and $2\frac{1}{2}$ cents a mile on another, if they are competing roads, this scale fixed by law, though differing, brings down the rate on both, and would not help the weak road, if it is competing with stronger roads. Our road is a weak road. Our system is not more than ten years old, and it has been competing for the development of Florida particularly, which, as I said, is one of the poorest States in the South.

Mr. RICHARDSON. Have you noticed that the legislature of Alabama has recently—I believe it has adopted it, certainly the governor has recommended it and one of the houses has passed it—considered reducing the rate to $2\frac{1}{2}$ cents?

Mr. HERBERT. I am coming to that in another portion of my argument.

Now, upon this question as to this particular system that I represent—

Mr. ADAMSON. Is not your system made up of fifteen or twenty smaller roads?

Mr. HERBERT. Yes, sir. Our system is new; it is made up of several different roads, and these roads belonging to our system, since it was formed, have been doing what they can to develop Florida. Tampa has developed wonderfully, and Jacksonville still more wonderfully. But we have encountered many difficulties. These roads are not making money. Our system had a deficit last year, and has never distributed anything to the stockholders excepting $1\frac{1}{2}$ per cent at one time.

All the roads in Florida have been banking very largely upon the future, and one of their hopes was blasted when there came a frost about eight years ago that absolutely destroyed nearly all of the orange orchards in Florida. There were to be, it was supposed, millions and millions of boxes of oranges shipped North. But in a sin-

gle night all of these hopes were blasted, and perhaps not for decades, and possibly never, will that industry reach the point at which it was when the frost came. Some of the roads of which this system is now composed went, at one time or another, into bankruptcy, one of them being the road from Fernandina to Cedar Keys. The agent here, Mr. Coleman, present local agent of the system, told me that he was general freight and passenger agent on that road for eight years after it was built, and that it did not pay operating expenses.

Now, gentlemen, it will not do to say that railroad men with capital must not invest in roads that are not paying. When you lay down that rule you put an end to development. If railroad men are not allowed to bank on the future—not allowed to say that they have expectations that will justify results hereafter—they can not get capital, and you can not develop the country. If such had been the rule for forty years past, who can picture what the South would now be?

Our system now, although it had a deficit last year, has every reason to believe, if it is allowed to go on, and if it is not too much hampered by legislation, it will become a profitable and paying system, profitable to the stockholders as well as the bondholders, and all the time more and more useful to the people of all the States through which it runs. We have recently gotten terminal facilities at Fernandina by action of Congress last year, and there we expect to be met by a line of steamships to go coastwise, and by lines that will carry freight across the water. We are also developing extensive terminal facilities at Tampa, and from that point we expect to carry freight in the future down to South America, and particularly through the Panama Canal when that is completed. If you put burdens on this road that it can not stand, what is to be the result? It must go into bankruptcy. And if it goes into bankruptcy it will fall into the hands of one of its competitors probably. If it does, instead of having three railroads south from here, we will only have two. To that extent you will be contributing to monopoly. And now, gentlemen, suppose this road should come in possession of one of its rivals? Would that present rival have the same plans for the development of the terminal facilities at Fernandina and elsewhere for pushing roads through down South as we are pushing them now below Tampa into the nonfrost region where oranges are never bitten?

Instead of doing that, seeing that this road had never paid heretofore, is it not probable that the new owners would curtail expenses and stop the development of the country. We are developing now because we must develop, we must get more trade, and we can only do it in that way; and this by the exercise of our credit. But strike down our credit by legislation, even make a report favoring hostile legislation, and what is the chance of our getting money to carry out the projects we are considering?

The CHAIRMAN. May I interrupt you here? You have spoken about the active competition between these three roads which you mention. Is there, in fact, any competition between those three roads or any other roads in the United States that develops itself in a lower charge for service, either in carrying freight or passengers; and is it possible to have that kind of competition where tariff sched-

ules by law are made public and can not be changed without, say, thirty days' notice? Is it practicable to have competition under those circumstances?

Mr. HERBERT. It is by the natural laws of competition which have been operating for the past thirty years that passenger rates particularly, and that is what is now before you, have gone down on portions of this road from 6 cents to 5, from 5 cents to 4, and from 4 cents to 3.

The CHAIRMAN. Is that the result of competition between the roads, or is that in response to the general necessities that grow out of a more prosperous condition and a naturally enlarged product?

Mr. HERBERT. Both causes cooperate, and when there is such co-operation there is a natural increase of prosperity which will follow the operation of these roads and their further extension, and thus, if allowed, we will bring about conditions that will enable us to make rates lower.

I spoke the other day of the marvelous fact—just this one fact, Mr. Chairman, which seems to me marvelous—that these roads down in States like Florida, where there is only a population of 37 to the square mile, should have their passenger rates reach an upward limit of 3 cents, when in New England the upward limit is 2 cents where the population and the wealth is twenty times as great.

Mr. KENNEDY. Right in that connection. A 2 cents a mile rate in Ohio seems not to be unreasonable; but are not the people of the South apt to conclude that railroads everywhere can take the same rate. That, of course, is not logical, and it would not be fair. But would not legislation by the National Government, clearly recognizing the fact that your railroad should not carry at the same rate as roads that are making \$30,000 per mile, prevent local legislation in the States, and would it not have a tendency to bring to their attention the difference between the railroads of the South and those in the thickly settled States.

Mr. HERBERT. I am bound to say in answer to that question that any bill proposed or any report made by this committee that would point out clearly and distinctly to the people of the Southern States, the States through which these roads run, the all-important fact that all railroads ought not to be treated to the same medicine, might or logically ought to have a good effect.

Mr. ADAMSON. In the thinly populated sections, where you can not run such fine trains, had they not better take a few plushes out of the upholstery, and take a little off of increased charge?

Mr. HERBERT. It would be rather an impracticable thing; a rather invidious thing.

Mr. ADAMSON. Through all the regions of the South you do not have to run that kind of trains, the same kind that they demand on the Lake Shore and the Erie, do they?

Mr. HERBERT. But wherever there is a through train, from one point to another, it would be an impracticable thing to stop and exchange cars.

Mr. ADAMSON. But you might carry them on different trains if necessary.

Mr. HERBERT. It would cost more than it would come to; it would be impracticable to put on another train—make transfers.

Mr. ADAMSON. That is the thing that makes so many mad jurors that you were speaking of, the allowing of a few fellows in Boston and Philadelphia to dictate the character of the schedules throughout the South to the detriment of the local people. I do not mean your road. The chief complaint about your road that I have heard in my country is that it does not go to all the points that they want it to go to.

Mr. HERBERT. But how will it ever get to those points if its credit is stricken down. There are many points in your State that ought to be developed, and there are many counties in Georgia that would grow up and prosper like the county of Covington has in the State of Alabama. But how are they to be reached by the Seaboard Air Line Railway with new branches if there is legislation that discourages capital. I think that question enables me to illustrate, as pointedly as it is possible, the iniquity that would be practiced upon this undeveloped region in the South by any legislation that would strike down the credit of these railroads and prevent their development of the South. All over the South we have an abundant rainfall; nearly all the land down there in all the States is capable of being made to blossom like the rose if they only have transportation. We did not have transportation once from Jefferson County. Where Birmingham is we had no town, and that county paid, Mr. Richardson says, the lowest taxes in the State. It is now the center of a great and thriving industry, and there are many other counties that are capable of being developed, and if railroads are permitted to do it, will be developed. But if there is hostile legislation by the Federal Government and by the States, this development can not be expected.

My plea is that now is not the time to cut the rates, and that it is impossible to do it with justice to the country; certainly it is impossible to do it with justice to that portion of the country through which this road I represent runs, and which this road is trying to develop.

Now, let us think for a moment about this particular period chosen for this legislation, chosen for the introduction of bills reducing rates, either by a horizontal reduction, or by any reduction at all. We have the testimony of Mr. Ryan that the labor expense recently on this road, had gone up \$200,000. Labor has been increasing its demands continually, and those demands must be answered. Not only must they be answered, but we must look to the future. Quite recently there was a conference in this city of railroad laborers asking for higher rates and shorter hours. That is the situation right now. These demands of labor, coupled with the expensiveness of materials—everything, ties, iron, everything that costs in the equipment of a railroad, is higher—and the expense of living is higher 20 to 25 per cent higher, for the railroads as well as for people. Your expenses are higher, and you have recognized the fact, justly and fairly, I think, by increasing the salaries of Members of the House and of the Senate. The country is going to approve of that I hope, universally. The evidence so far as I see here is that the country will approve it. That is what I gather from the papers in my State. And, gentlemen, just at this time when these expenses are increasing—and not only that, when the prosperity brought about by these roads has resulted in the production of so much freight that it is impossible with present facilities to handle it, and there is needed for the roads that are already

built more equipment, more terminal facilities, more sidetracks—really more tracks if they are to handle this freight to their advantage and to the advantage of the people. There should be no reductions. And all of these roads—none of them I believe—have any funds laid aside. They must resort to credit.

Mr. STEVENS. Where did you get funds to make the extension to Fernandina and Tampa and such places that you spoke of?

Mr. HERBERT. We have had to rely upon our credit. I do not know the particulars, but it is the same whether we have got to get money on credit or—

Mr. STEVENS. You would go to the money market?

Mr. HERBERT. Yes; to get it when our income is not sufficient.

Mr. STEVENS. Did you make these extensions out of your income?

Mr. HERBERT. I don't know exactly how they have been made, but I do know that there now is a deficit.

Mr. STEVENS. That is why I wanted to know. If you made extensions out of your income, and there was a deficit, that would not be an argument against this bill.

Mr. HERBERT. I think they have been made largely on credit—still I am not prepared to answer.

Mr. ADAMSON. Your system is not complete; you are all the time building?

Mr. HERBERT. All the time building and extending.

Mr. STEVENS. It is interesting for us to know in this particular, if you are making these extensions, where you get the money.

Mr. HERBERT. I will make a note of that, and I will ask permission to add to my remarks in these particulars. Within the limited time I have had for corrections, etc., I can only add in a general way that some of our extensions and improvements have been made from the profits of the paying portions of our system and some on credit money.

Now, gentlemen, just look at the present situation. Consider for a moment both freight rates and passenger rates; why should you reduce passenger rates instead of freight rates? Have you information enough to enable you to say that in the interest of the country and in the interest of the railroads, which are part of the country and are helping in its development, the first reduction ought to be on passenger rates? Take these people in the different States of Alabama, Georgia, and Mississippi, and other Southern States through which the railroads run. How many of them—that is, the farmers, the workers, the backbone and sinew of the country—travel by rail through other States? Of course, men on the borders may go across the line and sell chickens, but that is not material. There are very few of the people who are really affected by these rates, but they do need cheap freight rates.

They can not live unless they can send their products abroad, and unless they can get back products in exchange for them on reasonable terms. And this committee has not the time to get the information; it certainly has not the information now before it—at least it has not been developed here—that would justify you in coming even to the conclusion that passenger rates are the first things to be touched.

Mr. STEVENS. What do you maintain is the first requisite a railroad company should furnish the people—rates, or facilities, or safety, or what?

Mr. HERBERT. Safety first.

Mr. STEVENS. Then what?

Mr. HERBERT. Next to safety, it ought to furnish freight rates, I think, more cheaply than passenger rates, because they are more important.

Mr. STEVENS. And facilities after that?

Mr. HERBERT. Facilities for cheapening passenger and freight rates.

Mr. STEVENS. Don't you think that the people want facilities ahead of rates?

Mr. HERBERT. Their true interest is in having rates that will enable them to live and prosper.

Mr. ADAMSON. They could not judge the rates by the facilities?

Mr. HERBERT. No.

Now, gentlemen, every interest down South is prospering except the railways.

Mr. ADAMSON. The biggest trouble I see down South is where they give one town one rate, and another town a different rate. I don't think our people generally would kick if the rates were fair to all.

Mr. HERBERT. That is exactly the point I am getting to.

Mr. RICHARDSON. Before you start on that, I would like to have you explain to me or the committee this trouble that you have in Alabama. First and foremost is a general belief that the roads which pass through Georgia and come into Alabama charge much less freight in Georgia than they do in Alabama, across the line. Then is it not a fact—or have you examined it—that the roads that penetrate Alabama, when they render their assessments to the board provided by the laws of Alabama to whom they have to account, put their roads in at a value per mile of about \$7,000; and then when they come to make an account wherein their profits are involved, they estimate the same road per mile as worth not less than \$50,000 a mile? That is, when they put their property in to be assessed and pay their part of the taxes, they make an estimate of the worth of the road on an average of \$7,000 a mile; and when they come in to be assessed for their profit, for their realization on the profits, they quadruple it. Have you examined that?

Mr. HERBERT. I am going to speak of that in a moment.

Mr. RICHARDSON. I wish you would.

Mr. HERBERT. But if Mr. Richardson and Mr. Adamson will allow me for a moment to pass by that, I want to make this one point. Every single interest in Alabama now—agricultural, mining, manufacturing, farming—all are prospering excepting the railroads, which are paying no dividends. Suppose a widow ten years ago, or five years ago, had an insurance policy left her by a husband, on which she was to live, of about \$10,000. That would be a very good sum for the average throughout the country. If she had invested it judiciously in agriculture, mining, manufacturing, iron, or cotton, she would have gotten in profits from 8 to 10 per cent, and maybe more, and she would have received to live on something like a thousand or twelve hundred dollars perhaps. Suppose she had invested it in one of these railroads, hoping for development, she would have gotten nothing.

Mr. STEVENS. You do not contend that that is the fault of the Government. Isn't that the fault of the railroad owners themselves—the manipulators of the stock market?

Mr. HERBERT. I think not; it is the condition of things. And I am endeavoring to show that under present conditions, this is one of the interests that is not prospering. All of the other interests are prospering. Certainly, this is not the time to cripple railroads.

Now, to come to the question that was asked me, and they both relate to the same point, the discriminations—freight discriminations. There is complaint, and I am not here to deny that there can be found grounds of complaint about discriminations here and there in freight rates. These discriminations are brought about by the fact that these great systems are struggling, not only against each other, but they are struggling for rates that will enable them to live and pay interest on the money. Now and then, I do not doubt that in favor of points where there is competition, they make discriminations against this place or that place. What is the best way to remedy any discrimination if it be unfair? I believe that that is the only ground of complaint that the people of to-day really think they have against the railroads. Suppose we say it is well founded, who is to afford the remedy? You are not; or, at least there is no bill of that kind here before you, and you have not the time, as I have often said, to get the information that would enable you to do it; and you haven't got the expert knowledge. There is a body, however—the Interstate Commerce Commission—that has that power, and, under the Hepburn bill, which originated in this committee at the last session, the Interstate Commerce Commission has power to look into and remedy these precise things. If that is the ground of complaint, and a well-founded ground of complaint, it is one that Congress recognized when it passed the Hepburn bill and gave the machinery to the Commissioners to enable them to accomplish that result—the prevention of unfair discrimination.

The CHAIRMAN. The hour has arrived for adjournment. This matter will go over until next Friday.

Adjourned at 12 o'clock noon.

CONCLUSION OF REMARKS OF MR. HILARY A. HERBERT.

Mr. CHAIRMAN AND GENTLEMEN: When my remarks were interrupted by the hour of adjournment on Tuesday last, I was saying that the most reasonable ground of complaint, and what I believe has caused more discontent than anything else, is the fact that towns and other localities which do not enjoy the benefits of competing systems of transportation often fail to get freight rates as low as are given to points where there is actual competition. The law has for twenty years recognized that competition gives natural advantages to localities and that this advantage is not to be taken away by law, but if at any point it happens that injustice is done, that is a matter over which the Interstate Commerce Commission has full jurisdiction. The Commission is competent to deal with that question, and there you propose to leave it, I suppose, because no bill on that subject is now before you.

For the reduction of passenger rates there does not seem to be any widespread demand. No one has appeared here to advocate this bill. But if there is a demand for lower passenger rates you have given the Interstate Commerce Commission power to deal with that also. The act in which you did this was, at the last session of

Congress, the subject of the greatest debate that has taken place in this Capitol for many years. You thought, gentlemen, when you passed that bill (which originated in this committee and to which the honored name of your chairman has been given) that it would give relief. This was the consensus of opinion of the two Houses. That bill went into operation only at the beginning of this month. Why not give it an opportunity? Why discredit that Commission now by saying in advance that you do not believe it will do what you empowered it to do? What do you think will be the effect upon public opinion throughout the country if you say now, by passing a law that will divest the Commission of so important a part of the jurisdiction you so recently gave it, that you have no faith in it? Why, gentlemen, even a favorable report on this bill or any of these bills would be taken by the public—by the Commission—as indication that in the opinion of this course this is a matter that the Commission is not to deal with and Congress is.

And now, gentlemen, in conclusion let me say that my remarks have been confined largely to the railroad system I represent and to the section of the country in which that system operates, because what is true there is true elsewhere.

It seems to me to have been established before you by the evidence and by the authorities cited—

That you can not, without violating the Constitution, enact that railroads shall issue to those able to pay for them thousand-mile tickets at rates lower than the rates charged to others.

That you can not compel one railroad to redeem tickets issued by other roads.

That if you should abandon the idea of thousand-mile tickets, and fix uniform straight rates for all the roads, it would be unfair, unreasonable, and unjust.

That you have neither the information nor the time within which to get the information that would enable you to fix passenger rates for all the roads in the United States.

That any attempt to classify roads, either by dividing them off into zones or by graduating rates by gross incomes, would also be unfair, impracticable, and unjust.

And to speak again of the system I represent. The evidence has shown that the prosperity of the territory in which it operates, and of the whole South, during the last forty years, and particularly within the last twenty-five years, has, considering the burdens carried by that section of the country, been simply marvelous, and this prosperity has been the direct result of cooperation between the railroads and the people.

Again, the Seaboard Air Line is one of three systems of railroads which are all engaged in honest and earnest competition. It is a new system, composed of several roads, some of which have been subject to many vicissitudes—this chiefly because of the sparseness of population.

If the development of the region through which this system goes is to continue, the system must be encouraged and not discouraged.

This hearing has been going on for nearly four weeks. There is no evidence here of a crusade. Not a witness has appeared in favor of any of these bills, and every member of the committee has shown a disposition to consider this question fairly. But there are evidences

elsewhere of hostility that are alarming. Although our system has not yet been able to pay a cent of dividend on its common stock and never but $1\frac{1}{2}$ per cent at one time on its preferred stock, the Florida railroad commission some two years ago ordered two reductions on freights, both of which were submitted to without question. Two other orders by the same commission, still further reducing freights, were appealed from because the road believed them unjust, but the decisions were affirmed. And you must never cease to bear in mind, gentlemen, that courts are not rate-fixing bodies. That the Supreme Court of the United States has repeatedly decided that it has no power to afford any relief, except when discriminations are attempted which amount to the taking of property without due process of law, or when rates are fixed so low as to amount to confiscation. When it reaches that conclusion it can only declare a law void. It can not fix reasonable rates. But the reasoning in *Smythe v. Ames* tends to show that if the Nebraska legislature had left the railroads the power to earn even 1 per cent on their capital the court would have refused to interfere. Such a low rate would evidently have been unjust and unfair, but from the opinion of the court it would have been upheld, because not unjust and not unfair to the extent of absolute confiscation.

At this very moment bills are about to pass, if they have not already passed, reducing freight rates and passenger rates in Alabama. So in Georgia. Legislation is also to be urged against rates in Virginia and in North Carolina, and all this just at a time when all the expenses of operation and of betterment are rapidly increasing. If this crusade goes on capital will take fright and refuse advances not only for extensions and improvements, but even for necessary repairs and equipment. When a panic once begins it will affect not only the rich, but the hundreds and thousands of widows and orphans and other people in moderate circumstances who have their investments in railroad securities.

What relief will there be except in Government ownership? That idea is making headway already. Not only are avowed socialists advocating it, but many others, who do not claim to be socialists, are contending that the Government must own the railroads. If no other remedy is in sight, if the lawmakers, State and Federal, will not allow the owners of railroad property fair returns upon their investments, what is to prevent them from striking a bargain with the socialists? The socialists, if they can thereby get into power, will, you may be sure, stand ready for a trade. They will agree beforehand that the Government, when they get control, shall pay fair prices and when this bargain is made, when the railroad interests are driven into the wide-open arms of the socialists, what is to prevent the triumph of Government ownership?

This is a question the country ought to take note of, and it is one, gentlemen, for you to consider: Shall the railroad interests be driven by hostile legislation into the advocacy of Government ownership?

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Friday, February 1, 1907.

STATEMENT OF MR. LEWIS E. PAYSON—Concluded.

Mr. PAYSON. Mr. Chairman and gentlemen of the committee, as I was saying at the previous hearing, where the people in the States have taken up this question and have fixed maximum rates, these were the figures, and I had gotten down to the State of California in my presentation, stating then that the maximum rates by law ran from 3 to 10 cents a mile. As I said, these rates are fixed by a commission, and the operations under that commission are entirely satisfactory to the people of the State of California.

I read from the report of the annual convention of railroad commissioners, held in this city in April, 1902, from page 105:

Mr. BECKMAN. Mr. Chairman, I would state that we are a good deal in the same fix in our State. We have some 30 roads. For some of the roads we establish a rate for passengers of $2\frac{1}{2}$ cents per mile, and for others a rate of 10 cents per mile. If we did not allow 10 cents per mile the claim would be made that the passenger business was too light for a lower rating. We make a rate for almost every road. Where there is a great deal of travel we make a less rate; but where the travel is light, and amounts to only a trifle, we make a high rate. On one road they keep up 40 miles of snowshed, and we have to take all such things into consideration; therefore the statistics would be of very little use to us.

I may say, in this connection, that there are 17 States in the Union where the fixing of maximum rates is confided by law to railroad commissions; and in all those States, so far as I have been able to ascertain, the action of the commissions has been perfectly satisfactory to the people.

I read again, from page 103 of this report, a statement made by Mr. Wheeler, of Illinois, showing the satisfaction to the people of his State with the action of the commission:

Mr. WHEELER. I, in part, represent a State whose commission has the rate-making power, and we disregard in making our rates the approximate passenger and freight expenses. We pay no attention to them, but we classify our roads according to the net earnings per mile. That includes both passenger and freight, and we base the rates upon those net earnings.

And I will say further, that I do not believe there is a State in the Union where there is less friction between the people and the railroads than in the State of Illinois. They are satisfied on both sides. The people seem to be satisfied with the rates, and the roads seem to be satisfied with the rates; at least, they accept the rates—the maximum rates—as published by the commission, and in many instances make rates lower than those authorized by the commission. We do not prescribe minimum rates. We simply fix maximum rates, and the people are satisfied with the action of the various roads in following the rates as established by the commission, or in making lower rates than the commission authorizes. I repeat that I do not believe there is a State in the Union where there is less friction between the people and the railroads than in the State of Illinois.

The rates fixed by the Illinois commission I have already submitted to the committee. In Iowa the statutory maximum rate is $3\frac{1}{4}$ cents a mile. A few years ago it was proposed to classify the different roads in the State, so that for Class A a maximum of 2 cents a mile, for Class B a maximum of $2\frac{1}{2}$ cents a mile, and for Class C a maximum rate of 3 cents a mile was proposed, but this action failed.

In Kansas the maximum rate is 3 cents per mile. In Louisiana, by the action of the railroad commission, the maximum rate is from 3 cents per mile to 6 cents per mile. In Maryland, by statute, the maximum rate is 3 cents per mile. In Massachusetts the maximum is 3 cents per mile.

In Michigan the roads are graded so that in the lower peninsula a maximum of 2 cents and 3 cents per mile is permitted, and in the upper peninsula 2 cents and 4 cents. In Minnesota, by railroad commission, the rate is 3 cents per mile. In Missouri upon different lines the maximum rates are 3 cents and 4 cents per mile. In Nebraska, by State railroad commission, the maximum rate is 3 cents per mile.

In Nevada, by State law, a maximum not exceeding 10 cents per mile is allowed. In New Jersey, by State law, the maximum rate is 3 cents per mile. In New York, by statute, the maximum rate is 3 cents per mile, except that upon traffic between places intermediate between Albany and Buffalo the maximum rate is fixed at 2 cents per mile, and this is explained because along that portion of the New York Central Railroad line runs the Erie Canal, a State institution, so that the railroad competing with the canal is restricted in its charges to 2 cents per mile, as I stated.

In North Carolina the rate fixed by the railroad commission is 3½ cents per mile. In Ohio, by State law, the maximum rate is 2 cents per mile. In Oregon, by State law, the maximum rate is 4 cents per mile. In Tennessee, by State law, the maximum rate is 4 cents per mile. In Texas, by railroad commission, the maximum rate is 3 cents per mile. In West Virginia, by State law, 3 cents to 5 cents may be charged. In Wisconsin, by statute, the maximum rate is 3 cents.

At this point I insert, Mr. Chairman, the local passenger rates of the different lines of road involved in the Union Pacific and Southern Pacific systems, as follows:

Rates per mile of local passenger fares, January 1, 1907.

	Basis per mile.
Union Pacific Railroad:	
Main and branch lines in Kansas, Nebraska, Colorado, Wyoming, and Utah	\$0. 03
Except Park City and Superior branches	. 05
Oregon Short Line Railroad:	
Main line, Granger to Huntington and Salt Lake City to Butte, also Boise branch and Cache Valley branch	. 03
Cumberland branch, Twin Falls branch, Malad branch, and Marysville branch	. 04
Ketchum branch and Mackay branch	. 05
Oregon Railroad and Navigation Company:	
Main line and branches	. 03
Except Shaniko branch and Condon branch	. 04
Southern Pacific Company (Pacific system): (In California tickets limited to six months, good for bearer and good to stop over at any point, are sold at rates which have been approved by the California Railroad Commission. This is in accordance with the constitution of California. We, however, also sell continuous-trip tickets at lower rates made by the railroad voluntarily. In other States and Territories continuous-trip tickets are sold. The general basis for continuous-trip rates is as follows, there being of course exceptions by lower through rates between certain points):	
Ogden, Utah, to Auburn, Cal., main line	. 04
Branches	. 05
Nevada and California Railroad	. 05
California main lines	. 03
California branch lines not to exceed	. 05

	Basis per mile.
Southern Pacific Company—Continued:	
Oregon lines -----	\$. 03
El Paso, Tex., to Banning, Cal., main line -----	.04
Branches not to exceed -----	.06
Texas lines: In accordance with Texas laws not to exceed -----	.03
Louisiana lines:	
Main line -----	.03
Thibodaux branch, Houma branch, New Iberia-Abbeville branch, Alexandria branch, Eunice branch -----	.03
Cypremont branch, St. Martinsville branch -----	.04
Lake Arthur branch -----	.05
Lockport branch -----	.06

The courts have uniformly sustained rates largely in excess of 2 cents a mile as reasonable. In *Ames v. The Union Pacific Railroad Company* (64 Fed. Rep.), cited before, a difference of over 40 per cent in rates in Nebraska over similar service in Iowa was sustained by the Supreme Court of the United States as not unreasonable. Before the Interstate Commerce Commission, in the Charleston and Southern Railroad case, a rate of practically 4 cents a mile was held to be reasonable, taking into consideration the cost of the road, the density of population, the density of traffic, and the lack of local traffic.

I will read section 514 of Beale & Wyman's Railroad Rate Regulation.

514. *Cost of service a principle applicable to passenger fares.*—Cost of service is plainly a principle in rate making to be applied to passenger fares as well as to freight rates. It can not be more scientifically done in one case than in the other, but it is always a matter to be inquired into. Various considerations affecting the cost of passenger service are suggested in the extract from an opinion by the Interstate Commerce Commission, which follows, which held not invalid a fare of 3.826 cents per mile between Savannah and Charleston: "This railway between Savannah and Charleston runs mostly through swamp lands and crosses a number of rivers. From Savannah it runs parallel with the Savannah River, crossing it to the South Carolina side; the other streams crossed are the Coosawhatchie, the Salkehatchie, the Ashepo, and the Edisto. Five or more drawbridges are operated.

The road had 8 miles of trestling, but by filling in the trestle mileage has been reduced to 4. On account of the swamps and rivers the construction of the road involved more than ordinary cost, and unusual expense is required to maintain it in a good state of repair. The section traversed by the line is unhealthy, much of it is uninhabitable, and the population is made up almost entirely of colored persons. They have little patches of land, and some are employed in rice cultivation. Up to about three years ago phosphate mines in that region were worked extensively, but that industry has been abandoned to a considerable extent, because, it is suggested, of the discovery of phosphate rock in Tennessee, Florida, and other localities. There is one fertilizer factory located on the line about 35 or 40 miles south of Charleston. There are no places of importance between the termini of this road, and the counties in South Carolina penetrated by the line (not including Charleston County) number 28 persons to the square mile, as against 34½ to the square mile throughout the whole State. After leaving Chatham County, which includes Savannah, the road passes through Effingham County, Ga., which has about 13 persons to the square mile.

I will also read from section 522 of Beale & Wyman on Railroad Rate Regulation, the case of *Cist v. The Michigan Central Railway* (10 I. C. C. Reports, 217), emphasizing one paragraph of the opinion of the Commission where it stated: "There is hardly any section of the country in which a rate as high as 3 cents per mile is not charged for a local service of this distance."

522. *Principles of usual rates peculiarly applicable to passenger fares.*—The principle of permitting the railroads under ordinary circumstances to

charge usual rates of fare is particularly useful in dealing with the validity of passenger fares. There are certain standards of what will constitute a not unreasonable charge per mile for a passenger in most communities which it can hardly be shown to be unreasonable to maintain. Thus in one proceeding the Interstate Commerce Commission said: "We can not find upon this record that \$1.10 is an unreasonable charge from Niagara-on-the-Lake to Buffalo.

This is a branch line of the defendant, and the case does not show density of traffic nor the circumstances under which the passenger service is performed. It simply appears that a rate of 3 cents per mile is imposed. While lower rates are in force in many parts of the United States, it is also true that there is hardly any section of the country in which a rate as high as 3 cents per mile is not charged for a local service of this distance. The fact that a rate of 85 cents is made during the summer season to meet competition via Lewiston is not controlling, nor is the further fact that the New York Central, under compulsion of law, establishes a rate of 2 cents per mile from Lewiston to Buffalo.

In closing this point in this discussion I call attention to the fact that not a case of complaint against existing rates of passenger traffic has been sustained by the Interstate Commerce Commission or the courts, and that in no case in the entire Union, except in the State of Ohio, have the people fixed as low a rate as 2 cents per mile.

The rate-making power should always consider the cost of service for different parts of the same system. I cite in support of this proposition Beale & Wyman, sections 457, 458, and 510. As the cost of service on different lines of road or different systems of roads vary largely, there must necessarily be a difference in rates.

I read in this connection section 509 of Beale & Wyman:

509. *Cost of service for different railroad systems.*—It must be obvious from all that has been said that cost of service is a relative matter, different for different railroad systems. Upon some systems there will be grades, upon others none. Some are great systems with all the economies of large businesses, while others may conduct small systems through sparsely settled territory. To quote a specific instance from an opinion of the Interstate Commerce Commission: "Tested by these rules, a rate may be a very reasonable and just rate on one railroad and not reasonable and just on another. For example, a rate that would be reasonable and just on the New York Central and Hudson River Railroad may be so low that it would force the Minneapolis and St. Louis Railway into bankruptcy in less than thirty days; and a rate that might be reasonable and just on the Minneapolis and St. Louis Railway might be so high that if attempted to be enforced on the New York Central and Hudson River Railroad for thirty days it would practically destroy the business of the latter. This diversity is most observable in the different portions of the country—as, for instance, between lines of railroad in the Southern States, or the States of the far West, on the one hand, and the railroad lines of the Middle and Eastern States on the other.

I also read from pages 26, 27, and 28 of the report of the annual convention of railroad commissioners, referred to above:

We have little share, anyway, in the expectation that just railway rates will ever be established through statistical tables showing "per mile," "per ton," or "per passenger" costs. We do not believe that information of this kind ever did furnish the basis for actually fixing tariff rates, or that it ever will, because we believe that, even where railway commissions are clothed with power to fix rates, such rates will be made up upon a different basis and depend upon different conditions from any disclosed by such statistics. Particularly must this be true so long as the cost items per unit of traffic are confessedly erroneous and do not represent the true facts of the case.

So far, therefore, from the statistics obtained from this division being valuable as affording a criterion for railway rates, we believe that the very fact that this false information is liable to be so used is the most cogent reason which could be given for ceasing to furnish a basis confessedly erroneous. A man who travels in the wrong direction is certainly as likely never to arrive at his destination as one who travels not at all.

By all this we do not mean to be understood as saying that unless absolutely correct and accurate information is obtained the attempt to classify expenses should be abandoned. We do, however, mean to say that unless a result which is substantially and approximately correct can be had, it is better to leave the subject untouched, and to permit (if a cost criterion must be had) the statistics of each road to be estimated separately and in the light of its own conditions of traffic, and to be so estimated by those who may have the rate-making power.

In the somewhat lengthy investigation we have made in this matter one fact has arisen to a position of absolute clearness in our mind, which is that no universal or uniform basis of such division of expenses will ever yield statistical results near enough correct to be of practical use, or, indeed, not to be possibly harmful.

When we consider that the proposed division of expenses must be made on, say, some coal road of Southern Illinois which hauls an occasional passenger, by the same rule and upon the same basis which is applied to a passenger road connecting New York and Philadelphia or Philadelphia and Washington, what possible value can be expected in results so obtained?

If it were possible in the case of a single road to arrive at a correct rule for apportionment of operating expenses, it would remain doubtful whether the rule thus found would be applicable to any other road doing business in the country, and certainly it could never be applied to any considerable number of other roads.

It follows, then, that uniform mileage rates applied to different roads are necessarily unjust to the poorer roads.

Again, a uniform rate over the entire Union is unjustifiable for another reason. It would sacrifice the longer lines to the shorter from all common points. There are in every part of the country points which are common for traveling over the different lines to a common terminal. Now rates to such points are made substantially the same by the different railroads, giving the traveler his choice of route. For instance, from Washington to San Francisco via New Orleans the distance is 3,623 miles. The regular rate is \$77, which is 2.13 cents per mile. From Washington to San Francisco by way of Chicago the distance is 3,188 miles. Under this bill the short-route fare would be \$63.76. To meet this the Southern Pacific, being the longer route, would be compelled to adopt the \$63.76 rate, which would give it only $1\frac{1}{4}$ cents per mile, making a $12\frac{1}{2}$ per cent loss on present rates.

Again, from Omaha to Los Angeles the short line is 1,786 miles. Under this bill, at 2 cents per mile, the rate would be \$35.72 from Omaha to Los Angeles. By way of Ogden the line would be 2,141 miles; and this for the same rate, \$35.72, would give the Union Pacific road only 1.6 cents per mile.

From Denver to Ogden the short line is the Union Pacific, 600 miles. Under this bill, at 2 cents per mile, the rate would be \$12. From Denver to Ogden the line by way of the Denver and Rio Grande is about 700 miles, and the same rate of \$12 for the trip would give the Denver and Rio Grande Railroad Company only 1.7 cents per mile.

As showing the effect of the proposed 2-cent rate upon the present local rates of the Union and Southern Pacific systems, I insert the following tables:

	Rate, etc.	Remarks.
Between Omaha and Denver, Colo.:		
Present rate.....	\$16.15	Basis, 3 cents per mile, 538 miles, Burlington distance.
Union Pacific distance.....miles..	569	
Rate per mile.....	\$0.0283	
Mileage rate at present.....	\$13.45	Basis, 2.5 cents per mile, 538 miles.
Proposed rate.....	\$10.76	Basis, 2 cents per mile, 538 miles.
Rate per mile for Union Pacific.....	\$0.0187	
Between Omaha and Ogden, Utah:		
Present rate.....	\$30.00	Basis, 3 cents per mile, 1,000 miles.
Union Pacific distance.....miles..	1,000	
Rate per mile.....	\$0.08	
Proposed rate.....	\$20.00	Basis, 2 cents per mile, 1,000 miles.
Mileage rate at present.....	\$25.00	Basis, 2.5 cents per mile, 1,000 miles.
Between Omaha and Salt Lake City, Utah:		
Present rate.....	\$30.00	Basis, same as Ogden.
Distance, Union Pacific, Oregon Short Line.....miles..	1,037	
Rate per mile.....	\$0.0289	
Proposed rate.....	\$20.00	
Rate per mile, Union Pacific, Oregon Short Line.....	\$0.0192	
Between Kansas City and Denver, Colo.:		
Present rate.....	\$16.15	Basis, same as Omaha.
Union Pacific distance.....miles..	640	
Rate per mile.....	\$0.0252	
Mileage rate.....	\$15.575	Basis, coupons for 623 miles detached, at $\frac{1}{2}$ cents.
Proposed rate.....	\$10.76	Basis, same as Omaha. Two cents per mile would be \$12.80, but the necessity for maintaining parity among Missouri River points and Colorado common points would require adoption of Omaha-Denver rate.
Union Pacific distance.....miles..	640	
Rate per mile.....	\$0.0168	
Between Kansas City and Ogden, Utah:		
Present rate.....	\$30.00	Basis, same as Omaha.
Union Pacific distance.....miles..	1,230	
Rate per mile.....	\$0.0243	
Proposed rate.....	\$20.00	Basis, same as Omaha. Two cents per mile would make \$24.60, but necessity for maintaining parity between Missouri River points and Utah common points would require adoption Omaha rate.
Union Pacific distance.....miles..	1,230	
Rate per mile.....	\$0.0162	
Between Kansas City and Salt Lake City, Utah:		
Present rate.....	\$30.00	Basis, same as Omaha-Ogden.
Distance, Union Pacific, Oregon Short Line.....miles..	1,267	
Rate per mile.....	\$0.0237	
Proposed rate.....	\$20.00	Basis, same as Ogden.
Distance, Union Pacific, Oregon Short Line.....miles..	1,267	
Rate per mile.....	\$0.0157	
Between San Francisco and Ogden, Utah:		
Present rate.....	\$30.00	Basis, 4 cents per mile east of Auburn, Cal., and 3 cents per mile west thereof.
Distance, short line via Benicia, miles.....	786	
Rate per mile.....	\$0.0381	
Distance, via Stockton-Martinez, miles.....	847.42	
Rate per mile.....	\$0.0354	
Distance, via Stockton-Niles.....miles..	835.9	
Rate per mile.....	\$0.0358	
Scrip book net rate on \$90 book.....	\$19.65	Basis, 2.5 cents per mile, 786 miles.
Rate per mile—		
Short Line.....	\$0.025	
Stockton-Martinez.....	\$0.0232	
Stockton-Niles.....	\$0.0235	
Proposed rate.....	\$15.72	Do.
Rate per mile—		
Short Line.....	\$0.02	
Stockton-Martinez.....	\$0.0185	
Stockton-Niles.....	\$0.0188	
Between San Francisco and Portland, Oreg.:		
Present rate, first-class.....	\$20.00	Basis, old graded rate.
Distance via Davis.....miles..	746.19	
Rate per mile.....	\$0.0268	
Distance via Roseville.....miles..	771.97	
Rate per mile.....	\$0.0259	
Scrip book, net rate on \$90 book.....	\$18.67	Basis, 2.5 cents per mile, 747 miles.
Rate per mile via Davis.....	\$0.025	
Rate per mile via Roseville.....	\$0.0241	

	Rate, etc.	Remarks.
Between San Francisco and Portland, Oreg.—Continued.		
Proposed rate	\$14.94	Basis, 2 cents per mile, 747 miles.
Rate per mile via Davis	\$0.02	
Rate per mile via Roseville	\$0.0193	
Between San Francisco and El Paso, Tex.:		
Present rate	\$40.00	Basis, old graded rate.
Distance via Coast Line	1,290 miles	
Rate per mile	\$0.0031	
Distance via Fresno-Lathrop	1,297.6 miles	
Rate per mile	\$0.0308	
Distance via Fresno-Mendota	1,300.3 miles	
Rate per mile	\$0.0307	Basis, 2.5 cents per mile, 1,290 miles.
Scrip book, net rate	\$32.25	
Rate per mile, Coast Line	\$0.025	
Fresno-Lathrop	\$0.0248	Basis, 2 cents per mile, 1,290 miles.
Fresno-Mendota	\$0.0248	
Proposed rate	\$25.80	
Rate per mile, Coast Line	\$0.02	
Fresno-Lathrop	\$0.0199	
Fresno-Mendota	\$0.0196	
Between Los Angeles and Ogden, Utah:		
Present rate (Southern Pacific Co.)	\$40.90	Basis, \$27.55 to Sacramento plus \$13.35.
Distance—Short Line via Stockton-Lathrop	1,140.95 miles	
Rate per mile	\$0.0358	
Distance, Benicia-San Francisco-Coast Line	1,260.62 miles	
Rate per mile	\$0.0324	
Distance, Stockton-Niles San Jose, miles	1,247.62 miles	
Rate per mile	\$0.0319	Basis, 2.5 cents per mile, 1,141 miles.
Scrip-book net rate on \$90 book	\$28.53	
Rate per mile:		
Stockton-Lathrop	\$0.025	
San Francisco-Coast Line	\$0.0226	
Stockton-Niles	\$0.0228	
Proposed rate	\$22.82	Basis, 2 cents per mile, 1,141 miles.
Rate per mile:		
Stockton-Lathrop	\$0.02	
San Francisco-Coast Line	\$0.0181	
Stockton-Niles	\$0.0182	
Between Los Angeles and El Paso, Tex.:		
Present rate	\$30.00	Basis, old graded rate.
Distance	815.4 miles	
Rate per mile	\$0.0367	
Scrip-book net rate on \$90 book	\$20.40	Basis, 2.5 cents per mile, 816 miles.
Proposed rate	\$16.32	
Between Los Angeles and Portland, Oreg.:		
Rates between Los Angeles and Portland are to-day made the sum of locals Los Angeles to Stockton and Stockton to Portland. Stockton to Portland is same as San Francisco to Portland. The effect on San Francisco-Portland rate is shown herein. The rate between Los Angeles and Stockton is not interstate; therefore the exact effect could not be determined until conditions definitely settled. If a mileage ticket good upon trains and for bearer were in use the local rate would have to be reduced, as any one or a number of passengers on same train could use same book and single-trip tickets at higher rates would not be bought if it could possibly be avoided.		

Effect of the proposed basis upon through fares.

Through fares between important commercial centers in the West are adjusted so as to maintain a parity of conditions, so far as transportation is concerned, between points that are about equidistant, and are more or less competitive as gateways and distributing points, and to afford the widest latitude to competing routes.

To illustrate:

Between Missouri River common points (Omaha to Kansas City, inclusive) and Colorado common points (Denver to Trinidad) rates are the same.

Between Missouri River common points and Utah common points (Ogden and Salt Lake City) rates are the same.

Between Missouri River common points and California common points (all main-line points in California) rates are the same.

Between Texas common points (Houston, Fort Worth etc., which are considered as about on a meridian with Missouri River points) and California common points rates are the same as between Missouri River common points and California common points.

Between Missouri River common points and North Pacific coast common points (Portland, Tacoma, Seattle, Vancouver, etc.) rates are the same, and also same as between Missouri River points and California.

Between St. Paul, Minneapolis, Duluth, and Superior on the one hand and North Pacific coast points on the other hand rates are the same and the same as between Missouri River points and north coast points or California.

The rates between Missouri River points, St. Paul, Minneapolis, Texas points, and the western territory being so adjusted, control and effect the same parity in rates between eastern points and the Pacific coast, Colorado, etc.

An absolute mileage basis has not been used, but the rates have been made as low as deemed proper consistent with fair remuneration for the services performed, the necessities of the business, the free and continued movement of traffic, upbuilding of the country, etc.

If rates are to be made upon a mileage basis one of two courses will have to be adopted:

The parity of conditions will be disturbed, which means that different rates will to a greater or less extent prevail from points heretofore considered as common to points heretofore considered as common, certain routes that have been open to the public at short-line rates will be closed to such competition, decreasing facilities, and localities will have to readjust to the new conditions; or,

The parity will be maintained, which means that the lowest mileage between one of the common points on the one hand and one of the common points on the other hand will be the rate making mileage, resulting in the 2 cents per mile only over that particular mileage and yielding much less per mile over other routes and between other points in the groups of common points.

To illustrate this, the following distances between "common" points are given:

	Miles.
Omaha to—	
Sacramento	1,697
San Francisco	1,786
Los Angeles	1,781
Portland	1,799
Tacoma	1,910
Kansas City to—	
Sacramento	1,927
San Francisco	2,016
Los Angeles	1,762
San Bernardino	1,747
Mojave	1,737
Portland	2,030
Minneapolis to—	
Seattle	1,819
Tacoma	1,861
Portland	1,917
St. Paul to—	
Seattle	1,829
Tacoma	1,871
Portland	1,927
Houston to—	
Los Angeles	1,647
Colton	1,562
San Francisco	2,122
Fort Worth to—	
Los Angeles	1,428
Colton	1,343
San Francisco	1,903

The lowest mileage between a Missouri River gateway and California commercial center is that between Omaha and Sacramento, 1,697 miles. Rate based thereon at 2 cents per mile, \$33.94. If routes through southern California adopted same it would force same rate to Los Angeles.

The extent to which lines would go in meeting competition could only be determined after careful examination of the fares.

224 RAILROAD PASSENGER FARES AND MILEAGE TICKETS.

To illustrate the effect upon earnings per mile it is sufficient to consider a rate between Kansas City and Los Angeles made on 1,762 miles, as applied via some routes over which common rate to-day applies.

	Rate, etc.	Remarks.
Kansas City to Los Angeles:		
Proposed rate.....	\$35.24	Basis, 2 cents per mile, 1,762 miles.
Distance.....miles..	1,762	Via Chicago, Rock Island and Pacific, El Paso; Southern Pacific.
Rate per mile.....	0.02	
Distance.....miles..	1,807	Via Atchison, Topeka and Santa Fe.
Rate per mile.....	0.0196	
Distance.....miles..	2,048	Via Union Pacific, Ogden; San Pedro, Los Angeles and Salt Lake.
Rate per mile.....	0.0171	
Distance.....miles..	2,371	Via Union Pacific, Ogden; Southern Pacific Valley Line.
Rate per mile.....	0.0148	
Southern Pacific actual.....	0.0125	See note.
Distance.....miles..	2,491	Via Union Pacific, Ogden; Southern Pacific via San Francisco.
Rate per mile.....	0.0141	
Southern Pacific actual.....	0.0113	See note.
Distance.....miles..	2,221	Via Missouri Pacific, Denver and Rio Grande; Denver, Denver and Rio Grande to Salt Lake City and San Pedro, Los Angeles and Salt Lake.
Rate per mile.....	0.0154	See note.
Distance.....miles..	2,678	Via Missouri Pacific, Denver and Rio Grande, Denver; Denver and Rio Grande to Salt Lake City, and Southern Pacific Valley Line.
Rate per mile.....	\$0.0131	
Southern Pacific, actual.....	\$0.0126	See note.
Distance.....miles..	2,798	Via Missouri Pacific, Denver and Rio Grande, Denver; Denver and Rio Grande to Ogden, Southern Pacific via San Francisco.
Rate per mile.....	\$0.0126	
Southern Pacific, actual.....	\$0.0113	
Distance.....miles..	2,257	Via Missouri, Kansas and Texas, San Antonio, Southern Pacific.
Rate per mile.....	\$0.0156	
NOTE.—The average per mile dividing total distance into total rate is given above. In actual divisions of revenue this would not prevail, as longer lines between same points would have to accept same gross amount as shorter lines. Thus, Southern Pacific west of Ogden would receive same amount as accrued west of Ogden if business moved via Southern Pacific, L. A. & S. L. Hence, Southern Pacific actual returns per mile above shown. In a similar manner the longer line of Missouri Pacific, Denver and Rio Grande would receive east of Ogden and Salt Lake no more than received via Union Pacific Short Line. Hence the actual would be less than above shown.		
The foregoing demonstrates the results that would follow actual application of the basis.		
Between New Orleans and Houston, Tex.:		
Present rate.....	\$10.85	
Distance.....miles..	362	
Rate per mile.....	\$0.03	
Mileage rate, present.....	\$9.06	Basis, 2.5 cents per mile, 362 miles.
Proposed rate.....	\$7.24	Basis, 2 cents per mile, 362 miles.
Between New Orleans and San Antonio, Tex.:		
Present rate.....	\$17.15	
Distance.....miles..	571	
Rate per mile.....	\$0.03	
Mileage rate, present.....	\$14.27	Basis, 2.5 cents per mile, 571 miles.
Proposed rate.....	\$11.42	Basis, 2 cents per mile, 571 miles.
Between New Orleans and El Paso, Tex.:		
Present rate.....	\$33.15	
Distance, Missouri, Kansas and Texas—Galveston, Harrisburg and San Antonio.....miles..	1,194	Texas and Pacific 1,161 miles.
Rate per mile.....	\$0.0269	
Mileage rate, present.....	\$29.02	Basis, 2.5 cents per mile, 1,161 miles.
Proposed rate.....	\$23.22	Basis, 2 cents per miles, 1,161 miles.

Mr. Chairman, as to the effect of this bill, the rate proposed is low to the point of absolute confiscation on all the western and southern railroads. It is quite safe to say that at the present legal rates, nowhere on these lines less than 3 cents per mile, there is not a line of railroad west of the Mississippi and south of the Potomac but does its passenger business at a loss; and it is absolutely safe to say that there is not one whose operating expenses would be anywhere nearly met by a rate as low as two cents a mile. The proposed cut from existing rates, which are nowhere less than 3 cents per mile, is 33½ per cent of the passenger rate; and there is not a road in that portion of the Union which I have named which could stand this additional cut without raising its freight rates, and still keep out of the hands of a receiver.

You have before you the testimony of the managers of the Atchison, the Rock Island, the Louisville and Nashville, the Denver and Rio Grande, the Seaboard Air Line, the Southern, the Pennsylvania, as to lines west of Pittsburg, and several other roads, all to that effect; and it must be remembered that in the passenger earnings in the tables which have been exhibited here are always carried mail and express earnings, aiding thus the so-called passenger earnings on the different roads. It should always be kept in mind, too, that in these tables are never included the cost of or interest on the cost of passenger stations and terminals, which are wholly devoted to passenger traffic, and which are in no way connected with freight business; nor is there ever carried into these tables any depreciation of passenger plants nor taxes upon the passenger plants.

This question of figuring cost on the railroads is a very difficult one. While many items in the long list of expense accounts are clearly passenger expenses or clearly freight, there is a very large list, constituting the major portion of the expenses, which can only be divided as between passenger and freight business on some theoretical basis. But there is no settled official basis for division. At one time the Interstate Commerce Commission attempted to make a division of the expenses as between freight and passenger business, and the published reports were made accordingly. The latest such report was in the year 1893, when, of the total operating expenses and fixed charges on the railroads, it was found that 31.78 per cent of the expenses of the roads in this part of the country were chargeable to passenger business. Using this basis of dividing expenses we find the cost for transporting passengers per train-mile to be as follows on the various groups of railroads before referred to, and on several railroads where I have figured it; for convenience I repeat opposite the cost the average income per train-mile as previously shown, to wit:

	Cost per train mile.	Revenue per train mile.
Group 1	\$0.90	\$1.14
Group 2	1.26	.97
Group 3	1.23	.87
Group 6	1.14	.88
Chicago and Northwestern Railway	1.00	.83
Chicago Milwaukee and St. Paul Railway	1.17	.91
Chicago Burlington and Quincy Railroad	1.03	.90

I do not claim that these figures absolutely represent the cost, but they do represent the cost figured on the only official basis I have been able to find, which was that used by the Interstate Commerce Commission in 1893, their last report on that subject, and it will be seen that on the railroads in every group, except on the New England railroads, the cost of doing passenger business exceeds the income per train-mile. Various accountants, using varied methods of figuring expenses, come at a somewhat different result, but without exception they all arrive at the one definite conclusion that the passenger business on the railroads in the middle West, the territory between Chicago and the Rocky Mountains, is done at a loss. There is nothing strange about this when it is remembered that, unlike New England, where the passenger business on many of the railroads is the major and most important part of the traffic, the passenger business on the western railroads is a small part of the total business of the company, and is, to some extent, an incident of being in business at all. This question of loss on the western railroads is not so serious nowadays as it used to be years ago, when the railroad was built into new regions and passenger trains were run before there was any business to move—and this was done for the purpose of developing the country. But to some extent that method of conducting railroad business is still in vogue in the West and the passenger trains are in many cases run without profit, and in some cases at a direct loss for operating expenses alone, for the sole purpose of furnishing the people with a reasonable communication with the outside world, and with reasonable mail and express facilities, and to furnish the intending land seeker and prospective business man a reasonable opportunity to look the country over. By way of illustrating this fact, just note the following earnings per train-mile on certain Burlington branch passenger trains, to wit:

Chicago, Burlington and Quincy Railway passenger train earnings, year 1903.

	Per mile.
Keokuk and Red Oak (Keokuk and Western division).....	\$0.68
Red Oak and Nebraska City.....	.44½
Van Wert and Des Moines.....	.69
Burlington and Oskaloosa.....	.32
Creston and St. Joseph:	
One train.....	.70
The other train.....	.77½
Villisca and Clarinda.....	.23½
Villisca and St. Joseph.....	.88

Averages on some of the Chicago, Rock Island and Pacific Railway trains in Iowa for 1903.

	Per mile.
Indianola and Winterset.....	\$0.73
Guthrie Center branch.....	.41
Griswold branch.....	.59
Carson branch.....	.40
Sibley branch.....	.34
Keosauqua branch.....	.29
Clinton and Davenport branch.....	.38
Montezuma branch.....	.54
Sioux Falls branch.....	.39

I will also insert here official tables of the Pennsylvania Railroad of its passenger business for 1904 on its lines west of Pittsburg, showing 32 lines of road independently operated, and on those an absolute

large loss on 20 of these 32 lines in their passenger business; a very small profit only on 12 lines, and this directly attributable to the large mail and express business on these 12 lines:

PENNSYLVANIA LINES WEST OF PITTSBURG.

Average passenger earnings, expenses, and net earnings per mile, year ending December 31, 1904.

	Per passenger per mile.		
	Earnings.	Expenses	Net.
	Cents.	Cents.	Cents.
Pittsburgh, Fort Wayne and Chicago Railway.....	1.98	2.06	a 0.08
Masonell and Cleveland Railroad.....	0.91	0.38	0.53
New Castle and Beaver Valley Railroad.....	2.64	1.32	1.32
Pittsburgh, Youngstown and Ashtabula Railroad.....	2.37	3.35	a 0.98
Erie and Pittsburgh Railroad.....	2.31	2.62	a 0.31
New Castle Branch, Western New York and Pennsylvania Railway.....	2.57	2.60	a 0.03
Cleveland and Pittsburgh Railroad.....	2.08	2.13	a 0.05
Pittsburgh, Ohio Valley and Cincinnati Railroad.....	2.75	7.82	a 5.07
Toledo, Walbonding Valley and Ohio Railroad.....	1.68	2.16	a 0.48
South Chicago and Southern Railroad.....	1.22	3.32	a 2.10
Cleveland and Marietta Railway.....	2.33	2.25	0.08
All lines operated directly by the Pennsylvania Company.....	2.01	2.13	a 0.12
Pittsburgh, Cincinnati, Chicago and St. Louis Railway.....	1.96	1.94	0.02
Little Miami Railroad.....	1.76	2.01	a 0.25
Chartiers Railway.....	1.99	1.45	0.54
Pittsburgh, Wheeling and Kentucky Railroad.....	2.41	2.06	0.35
Indianapolis and Vincennes Railroad.....	2.34	2.06	0.28
All other lines operated directly by the Pittsburg, Cincinnati, Chicago and St. Louis Railway Company.....	1.96	1.94	0.01
Grand Rapids and Indiana Railway.....	2.07	1.80	0.27
Muskegon, Grand Rapids and Indiana Railroad.....	1.33	1.43	a 0.10
Traverse City Railroad.....	2.36	2.88	a 0.52
Cincinnati, Richmond and Fort Wayne Railroad.....	2.41	2.46	a 0.05
Cincinnati and Muskingum Valley Railroad.....	2.17	2.62	a 0.45
Waynesburg and Washington Railroad.....	2.78	2.59	0.19
Pittsburgh, Chartiers and Youghiogheny Railway.....	2.26	3.90	a 1.64
Cleveland, Akron and Columbus Railway.....	1.72	1.76	a 0.04
Cincinnati, Lebanon and Northern Railway.....	1.21	2.81	a 1.60
Toledo, Peoria and Western Railway.....	2.44	2.26	0.18
Central Indiana Railway.....	2.68	6.00	a 3.32
Terre Haute and Indianapolis Railroad.....	1.68	1.37	0.31
St. Louis, Vandalia and Terre Haute Railroad.....	1.83	1.29	0.54
Terre Haute and Logansport Railway.....	2.00	2.19	a 0.19
Logansport and Toledo Railway.....	2.14	2.96	a 0.82
Terre Haute and Peoria Railroad.....	2.40	3.78	a 1.38
All lines operated under their own organizations.....	1.94	1.77	0.17

^a Loss.

30 roads show net loss per passenger per mile.

12 roads show net earnings per passenger per mile.

NOTE.—The reason that in some cases a loss is shown per passenger mile and a profit per passenger train mile is because the earnings per passenger train mile include mail and express.

These examples of conditions are given to show that where conditions are very favorable the passenger business of the railroads of the Union, at the present rates, is done at a loss. It is, therefore, perfectly apparent why, upon all the western and southern roads, no profit, but still greater losses occur which are made good out of the freight earnings, or by bond issues to meet floating debt.

The reasons have been fully shown. In all these ill-favored sections of the Union there is the lack of density of population, and of course the density of traffic necessary to make even a paying condition in passenger rates. In these sections of the Union there are comparatively few passengers, and small, light trains, which are never utilized to their average capacity, except in an occasional emergency. Every transportation authority recognizes this principle—that cheap passenger fares must be preceded by an actual density of traveling population. The standard of high speed, additional trains, more modern

and expensive equipment, special accommodations, as for excursions and party rates, and so forth, must be provided to meet the public demand; and all these conspire, as to all roads in the West and South, to the public service at an actual loss on passenger business at the existing regular rates, which, as I have shown, are never less than 3 cents per mile.

Let another thing be remembered here. In these recent years everything, practically purchased by the public, has largely increased in value and cost. So much so, that wages and salaries to employees and officials have been correspondingly increased to meet the situation as to prices of commodities and expense of living.

In railroad operating, the same condition exists. Everything the railroad company requires, has largely increased in cost. Better facilities of travel, better equipment of trains, better speed and more frequent trains are demanded by the public, and invariably supplied by the roads, and without any corresponding increase of rates.

Now come these bills, and by them it is seriously proposed, not to meet the increased expenses of train operations because of better facilities, but to reduce the rates of an already losing, unprofitable business, by at least $33\frac{1}{3}$ per cent. Except in Ohio, the legal rate is nowhere less than 3 cents per mile: as shown, that does not pay operating expenses on western and southern roads. A cut to 2 cents, as proposed, reduces the income $33\frac{1}{3}$ per cent upon a business already unprofitable. The injustice of this proposal is apparent.

How then, as a practical question before this committee, must rates for passenger fare be made for all the different roads and systems of roads in the Union? It has been clearly demonstrated to this committee, and not disputed by a single voice, that in different parts of the country all the conditions upon which proper-rate making can be based are so varying, so different, that no rate "per mile" based upon these conditions of any line East, can be properly applied to any line West.

These conditions are not in any way similar, even in one element, when applied to two different lines, much less substantially identical, as the law requires, before a blanket uniform rate can be applied to all, as is proposed by these bills. Therefore statistics as to each road must be gathered and treated separately by the rate-making power, unless it shall appear that, as to some roads, conditions as a whole are so similar that they may be grouped, and then as to rates may be treated alike. But this requires careful examination of all the facts as to each road. It can never be done on the basis of "per mile" or "per passenger," nor will any division of freight or passenger expenses yield results near enough to be of any practical use to the rate-making power. The Interstate Commerce Commission abandoned that idea in 1892 and they have never revived it. Congress can never undertake to examine and determine conditions as to all elements of just rates on the different lines of road in the Union. It can only act by committees in that regard. This committee would be the appropriate one. Every member of this committee would testify, if asked, that he could not if he would, with his other duties pressing, in a whole session work out the single case of *Smythe v. Ames*, which involved only the relations of the Union Pacific and three small roads to the people of Nebraska alone.

' The impossibility of dealing with the whole field of the different roads in the Union as a whole by Congress is well illustrated by the parliamentary history of these bills now before the committee. Will the gentleman from Ohio [Mr. Kennedy] pardon a personal reference to his bill, H. R. 22133? It proposes a general blanket passenger rate of 2 cents per mile, tickets to be good upon the trains of any railway in the United States, and so forth.

Now, Ohio has such a rule as to State traffic, and undoubtedly such condition in his own State was the inspiration of his bill here. Equally, surely, this bill was the expression of the best judgment of the gentleman from Ohio, when it was introduced, as the best method of dealing with this great subject by Congress. But since the discussion here has progressed, the gentleman from Ohio has, with commendable frankness, openly announced that the principle of his bill, a general blanket rate, has been abandoned by him, and that he proposes to present the proposition of a classification of the different rates, based upon gross receipts, and a graduated scale of rates based thereon. I may say here that that plan can never be properly adopted, for reasons easily given, if the subject were being discussed.

This shows the inherent difficulty in dealing with the question of any arbitrary fixing of uniform passenger rates applying to all roads, and especially by Congress. I undertake to say that not a member of this committee could or would attempt to go to the bottom of the necessary investigation, even if he could settle upon some plan which he regarded as legal. Therefore, if any change in rate is to come, who shall determine that change? Congress can not perform this work. The field is too broad, the labor too unwieldy, and the details too vast. Nor ought Congress to attempt it. Conditions in the country are constantly changing. Sessions of Congress are held only once in two years. These changing conditions as to some roads might require a change in rates as well as the curing of defects in the legislation would require it.

This recalls the colloquy between you, Mr. Chairman, and Mr. Ryan, of the Seaboard Air Line, at a former meeting. You put him this query:

"Have you any plan to suggest?" And you said: "Your idea is that of the graded school, that regulates the progress of every scholar by the stupidity and incapacity of the inferior scholar in the class."

You followed that with this statement:

The CHAIRMAN. Let me in this connection, or in connection with the query that I put to you, remind you that all gentlemen who have appeared before this committee when we have been discussing rate legislation, have urged that the Interstate Commerce Commission be not given the initiative in the establishment of rates. All the corporations have objected to that, and nothing of that kind has been done. But when we then attempt legislation that must be uniform in its character you inveigh against that because of its inequalities of operation. Now, the Congress must either act in this matter of establishing a rate that would be uniform, or the Interstate Commerce Commission or some other tribunal must be given the power so that they can differentiate between the different roads, the strong and the weak, unless you gentlemen can help us to some solution of the matter. You are the men who, above all others, are familiar with the subject, and should know, if anybody knows, what can be done, so that justice can be done to the weak line as well as to the strong line. But you content yourselves invariably with inveighing against whatever is proposed, and up to this time, so far as I have been a member of the committee, and, so far as I can recall, no one of you has ever made a suggestion in the way of a solution of the difficulty. Now I think that is scarcely fair.

Your allusion to the graded school was not happy. The roads opposing these bills are not urging any handicapping of the "brighter, better" roads. They are protesting against the applying to them, in their inferior condition, the same rules and regulations given their more prosperous fellows in the East.

They ask you not to put upon them, the "inferior scholars" in the class, the same tasks which you, as master of the school, put upon the brighter, superior fellows; tasks which they can perform, but which we inferior fellows can not. By these bills you determine what the bright fellows can do, and then demand that we do the same, when you will admit we can not.

But let me attempt to answer your real query, "What is the solution of this matter?" But for your modesty, Mr. Chairman, you might have answered your own question by saying, the "railroad rate bill of June 29, 1906, bearing your name, is the solution of the whole matter and an ample one."

By general law, the carrier may fix his own rates in the first instance—these must be reasonable; when schedules are made, filed, and posted, they are presumed to be reasonable until complained of.

Under sections 9 and 15 of the act full power is given to determine and fix a reasonable rate, if the published rate is found unreasonable. The act is complete and a full protection to the public. The whole matter should be left just where it is—so far as general legislation goes—with the Interstate Commerce Commission. There is no demand from a Federal standpoint for any change in existing rates.

I ask where have the roads generally failed to respond to any public demand for additional facilities for travel or more reasonable rates? Who is complaining here, so far as known? To this date not a voice is heard nor a letter read asking for this legislation.

Existing law fully protects the people. Every road has filed its schedules. When approved they have the force of law until modified. If the rates in any case are unreasonable the wrong is never against the individual citizen but a community.

A alone is not injured, but B, C, and all in that community who travel. In such case complaint is at once made and investigation had by a body specially adapted to that end.

I have said there was no demand for this legislation; there is no need for it. I am told there is not now a single case before the Interstate Commerce Commission for alleged unreasonable charges in passenger rates. I am also told that there has never been a case decided by the Commission sustaining the claim of unreasonable passenger rates. Never one decided, moreover, requiring less than three cents per mile.

In dealing with the regulation of both passenger and freight charges, Congress passed the recent rate bill, placing the full power of regulation in the hands of the Commission. Seventeen States in the Union have done the same thing, recognizing the propriety, indeed, the necessity, of such a body to treat this question. The same difficulties arise in passenger as in freight transportation, and whatever course is best as to forum as to one is best as to the other. Congress wisely confided the whole subject to the Commission, but by this legislation proposes to take from the Commission the power to consider individual cases and settle by one swoop the whole question of passenger rates without hearing, and without redress except in the courts.

The people are content with commission regulation. (State Railroad Commission, 103; same in California, Michigan, and Minnesota.) Where Commission regulation has been adopted in States, no proposal has been made to change it to legislative action. The Supreme Court says that is proper tribunal. (*Smythe v. Ames*, 169 U. S., 527.)

The people are safe in the hands of such a tribunal—one created by Congress, composed of men of character, ability, and fitness for the responsible positions they occupy.

In no case, up to this date, have the Commission failed to act up to the highest standard of duty as to protection to the people.

The railroad systems of transportation have so grown in this generation that they have become the most important and valuable factor in the field of human endeavor. The world's entire stock of money of every kind—gold, silver and paper—would not purchase one-third of its railroads and equipments. The railroad system of this country as a whole, is the grandest construction of physical properties in the world. With all its varied conditions, under the guiding hands of men of genius, working for harmonious relations, through and with the different roads, a result is had already. Smooth in operation, excellent and satisfactory in results, giving the best and cheapest passenger service in the world. Some minor defects undoubtedly exist, but existing law furnishes ample, speedy, and full means of correction.

But these bills suddenly thrust discord and confusion into the whole system now so well in hand. Existing law, the present Commission, with its full powers, is the result of the best efforts of the distinguished men in Congress, who acted in perfecting the existing rate bill. I submit that it is the part of wisdom to give the law a fair trial, making haste slowly as to radical changes in principle. Conservative action now is demanded by the important interests involved. The goal of success was reached in the matter of railroad rate regulation in the late legislation. Let us give it a fair trial as to practical operation before considering even such radical legislation as this.

These bills are against reason, principle, and authority, and, I submit, respectfully, but earnestly, ought to be rejected by the committee.



HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

JANUARY 16-23, 1907,

ON

ADDITIONAL AIDS TO NAVIGATION IN THE LIGHT-HOUSE ESTABLISHMENT.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1907.

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SPECIAL SUBCOMMITTEE ON LIGHT-HOUSE ESTABLISHMENT.

JAMES R. MANN, Illinois, *Chairman*.

FREDERICK C. STEVENS, Minnesota.

WILLIAM C. ADAMSON, Georgia.

WILLIAM H. RYAN, New York.

HEARING BEFORE THE SUBCOMMITTEE ON AIDS TO NAVIGATION OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE.

HOUSE OF REPRESENTATIVES, *Wednesday, January 16, 1907.*

The subcommittee met at 4 o'clock p. m., Hon. James R. Mann (chairman) in the chair.

STATEMENT OF MR. H. COULBY, OF CLEVELAND, OHIO, PRESIDENT OF THE PITTSBURG STEAMSHIP COMPANY AND A MEMBER OF THE LAKE CARRIERS' ASSOCIATION.

The CHAIRMAN. Just tell us what you want.

Mr. COULBY. We want a light-house of the second order and a fog signal located on the north shore of Lake Superior in the vicinity of Split Rock. There is no light on the north shore of Lake Superior between Grand Marie and Two Harbors.

All the ships going up to the head of Lake Superior have to make the north shore as a landfall, and have had to do so during these past two years.

The CHAIRMAN. Between what points, did you say?

Mr. GOULDER. Between Grand Marie and Two Harbors. It is about 20 miles east.

Mr. COULBY. During the past two years there have been accidents along this shore aggregating a loss of nearly \$2,000,000 in vessel property. The total losses in 1905—in the fall of 1905—were very heavy. The steamer *Lafayette* and the barge *Madeira* and the steamer *Spencer* and her consort the *Pennington* and the steamer *Edenborn* and the barge *Manila* went ashore in the vicinity of Split Rock, costing a great deal of money to repair them.

This is required on account of the magnetic attraction there, by reason of which mariners can place no reliance upon their compasses, and the captains of the ships, through their managers and their associations, place this as of paramount importance, that a light-house should be installed at that point.

Mr. RYAN. What is the name of that point?

Mr. COULBY. Split Rock.

The CHAIRMAN. How far is that from Beaver Bay?

Mr. COULBY. Beaver Bay is nearly half way up from Two Harbors to Grand Marie. It must be 4 or 5 miles.

The CHAIRMAN. We have a light-house reservation on Beaver Bay.

Mr. COULBY. It is 7 or 8 miles.

The CHAIRMAN. Which way?

Mr. COULBY. North.

The CHAIRMAN. What vessels go up that way, and why?

Mr. COULBY. All ships going to Two Harbors, Duluth, or Superior, have to go up that way. They make their course right here [indicating on chart], and they have got to make the north shore, and they come by these islands [indicating on chart], and in thick weather they have got to pick up the north shore, because they can not rely on the compass, and they have to pick up the north shore and follow it into Duluth or Superior, coming up to Duluth and Two Harbors.

The CHAIRMAN. How is it about vessels going away from Duluth and Two Harbors?

Mr. COULBY. Of course they leave the north shore here [indicating on chart], and they can follow it down. It is in making the north shore that the difficulty comes in.

The CHAIRMAN. You mean vessels from the east?

Mr. COULBY. Yes.

The CHAIRMAN. For Duluth?

Mr. COULBY. Yes.

The CHAIRMAN. We provided a light-house for Rock of Ages. Now, what vessels go there?

Mr. COULBY. Those are the vessels going to Port Arthur and Port William from Duluth or Superior, or vice versa, and in very heavy weather the vessels go from there and make the north shore—under the lee of the north shore—

The CHAIRMAN. Going to Duluth and Two Harbors?

Mr. COULBY. Yes.

The CHAIRMAN. It was represented to us that ships had to go around that way a considerable portion of the time. Is that the case [indicating on chart]?

Mr. COULBY. The north shore is only used by the ships that are keeping the shelter of the north shore.

The CHAIRMAN. What advantage will that light-house on the Rock of Ages be to a vessel going to Port Arthur?

Mr. COULBY. It is no advantage to a vessel going to Port Arthur, unless she is coming from the upper end of the lake.

The CHAIRMAN. She does not go by Rock of Ages to get to the upper end of the lake, does she?

Mr. COULBY. Yes [indicating course on chart].

The CHAIRMAN. Do any vessels go that way?

Mr. COULBY. Yes. A good many coast traders go along that way, and the large ships in the fall of the year, in heavy weather, use that [indicating on chart]. They follow this north shore down and square right away here [indicating].

Mr. GOULDER. There is an immense grain shipment from Port Arthur, and in the fall by our ships that go from Duluth there after having taken coal to Duluth.

Mr. COULBY. What we particularly need this for is the heavy weather in the spring and fall of the year, and this will be something as a guide to them, so that in making the north shore they can know where they are and square away.

The CHAIRMAN. The light-house at Grand Marie was put there because it was claimed that that was the place you made the north shore.

Mr. COULBY. I never knew a man to go over and make the north shore unless he was. That is of no value for the great trade from Duluth, Two Harbors, and Superior or the lake harbors coming through the Soo.

The CHAIRMAN. This used to be the course there?

Mr. COULBY. Never.

Mr. MANN. Does the course run southerly or straight west after you pass the middle of the lake?

Mr. COULBY. Here is the Soo. The course comes around North Point, and then they steer across to the islands, and then come across and make the north shore to square away there.

The CHAIRMAN. If they missed these islands they will come south even of Beaver Bay, apparently.

Mr. COULBY. No; they go west of Beaver Bay. You see, they try to get across here so as to just clear the islands, and then fetch the north shore.

The CHAIRMAN. The way you put it on the map is one way, and the way you put it in language is another way. That is what I am trying to find out. Would you run off here [indicating on chart] so as to come in south of Beaver Bay? Split Rock is above Beaver Bay?

Mr. COULBY. Here is Split Rock [indicating on chart] and here is Beaver Bay [indicating].

The CHAIRMAN. I understood you a while ago to say that it was north. It is southwest of Beaver Bay instead of north?

Mr. COULBY. Yes.

The CHAIRMAN. You said a while ago that it was north.

Mr. COULBY. I got mixed up.

The CHAIRMAN. That is what misled me. I thought Split Rock was up here [indicating on chart].

Mr. COULBY. No, it is right here [indicating].

The CHAIRMAN. A light-house at Beaver Bay would not be satisfactory?

Mr. COULBY. No.

The CHAIRMAN. That is not sufficient?

Mr. COULBY. No, not as satisfactory as at this point [indicating on the chart].

The CHAIRMAN. We have a light-house at Beaver Bay. I do not know that cuts any figure. What is this [indicating on chart]?

Mr. COULBY. That is Split Rock Point.

The CHAIRMAN. What sort of a location is that?

Mr. COULBY. It is high land. This shore is all high land along that entire length there [indicating].

The CHAIRMAN. Have you ever presented a request for that to the Light-House Board?

Mr. COULBY. No; we took it up with the Light-House Board yesterday.

The CHAIRMAN. How does it happen that you have not done that before?

Mr. COULBY. I am unable to tell you.

Mr. RYAN. Have you ever sailed there?

Mr. COULBY. No, but I have managed ships up there.

The CHAIRMAN. Marine interests are not usually so modest about making a request.

Mr. COULBY. I think the reason for that is that we have had no concerted action. We have had a good many accidents in this country in the last four or five years, but there does not seem to have been anything brought to the attention of the Board.

The CHAIRMAN. Of course you know we have an inspector whose business it is to attend to all requests made, and you have not even brought this to his attention.

Mr. COULBY. Yes, through the Lake Carriers' Association it has been.

The CHAIRMAN. Recently?

Mr. COULBY. Yes.

The CHAIRMAN. How much commerce is there by there; I do not mean exactly.

Mr. COULBY. The commerce by that point would now run over 30,000,000—probably 35,000,000—tons.

Mr. RYAN. That is half of the commerce of the Lakes?

Mr. COULBY. Yes.

The CHAIRMAN. Your claim for this proposition is that the vessels coming to Duluth pass Superior and Two Harbors?

Mr. COULBY. Yes, sir.

The CHAIRMAN. To the Duluth territory. Vessels are unable to tell where they are by the compass on account of the great bodies of iron ore and hence you make for the coast as a guide, and in shallow water you are not able to tell how near you are to the coast?

Mr. COULBY. Yes.

The CHAIRMAN. Suppose we put the light-house there. Of course for foggy weather you want a fog-signal station also?

Mr. COULBY. Yes.

The CHAIRMAN. Have you any other light between that point and Duluth that you know of?

Mr. COULBY. I do not think so.

The CHAIRMAN. Have you ever navigated here, yourself?

Mr. COULBY. No, sir.

The CHAIRMAN. Is there anyone present here who has?

Mr. COULBY. Yes; Captain Shaw is a navigator.

Mr. GOULDER. But, Mr. Mann. Mr. Coulby speaks of 200 masters who have discussed this subject.

The CHAIRMAN. Yes, I know. That is the argument, and we have heard a great many. Where we can we like to get a practical man.

Mr. COULBY. There should be a light-house on Knife Island, but we did not think that it was of enough importance to bring it up at this time.

The CHAIRMAN. Mr. Bede has introduced a bill for a light-house on Knife Island.

Mr. COULBY. Yes.

The CHAIRMAN. Just where is it?

Mr. COULBY. It is right here [indicating on chart].

The CHAIRMAN. In your judgment, this light-house at this point is much more important than the one on Knife Island?

Mr. COULBY. Yes; there should be one at Knife Island, too.

Mr. RYAN. That would be about 40 miles from the other lights?

Mr. COULBY. Yes.

Mr. RYAN. It would be more than that.

Mr. STEVENS. You consider that the light on Split Rock is necessary, and the other is advantageous?

Mr. COULBY. Yes.

The CHAIRMAN. Your company operates vessels under the same conditions that all the other people operate under up there?

Mr. COULBY. Yes.

The CHAIRMAN. There is nothing exceptional in that situation in regard to your company which should make you prefer Split Rock?

Mr. COULBY. No.

The CHAIRMAN. Very well. Let that go for a minute. What else is there?

Mr. COULBY. Here is another place where a light-house of the first order and fog signal are required, on Gull Island, which is an extension of Michigan Island. A year ago last fall one of the ships I managed went ashore there, and it cost us about a quarter of a million dollars to get her off. This fall another large steel steamer went ashore, and they very nearly lost her, in precisely the same place. That makes it necessary because there is no light to guide them for these islands in approaching from the eastward. There is a light on Michigan Island, on the westerly end of it, but it is of absolutely no use because the light is on the westerly end of the island and can not be seen from the eastward.

Mr. RYAN. What was that put there for?

Mr. COULBY. That was put there in the old days when Bayfield was a trading point and Ashland was unknown.

The CHAIRMAN. You say it is on the western end of the island and can not be seen?

Mr. COULBY. It is right there [indicating on chart], and the island is high so that you can not see that until you get right here [indicating on chart].

The CHAIRMAN. Now, as to Gull Island, you do not want a light-house there?

Mr. COULBY. That light-house is of very little use there.

The CHAIRMAN. Would not a gas buoy without the light-house there be sufficient?

Mr. COULBY. No; there ought to be a good light on Gull Island.

The CHAIRMAN. Do you know what it would cost to put one there?

Mr. COULBY. \$100,000.

The CHAIRMAN. A little thing like that does not cut much ice, I suppose.

Mr. COULBY. Not with the amount of commerce that comes in there.

Mr. RYAN. Might that other light be abandoned then?

Mr. COULBY. No; it ought to be on the other end of the island.

The CHAIRMAN. If that was abandoned, would not people coming from Ashland make the same complaint that you make now?

Mr. COULBY. No; for the reason that when a man is going out he is coming out of this pocket all the time [indicating on chart]. He does not need it so much, but that is the guide for a vessel getting in here [indicating on chart].

The CHAIRMAN. He wants to know the way out, too.

Mr. COULBY. I have never heard of a man who would care much for that light going out as compared with having a guide coming in.

The CHAIRMAN. It is quite safe to say that when that light was put there that was what the mariners wanted there.

Mr. COULBY. You can not see that light when you get abreast of it on this course [indicating on chart].

The CHAIRMAN. Why do you say that you need a light of the first order there? There is no shoal water there.

Mr. COULBY. This end of the island, which is submerged [indicating on chart] is Upper Michigan Island.

The CHAIRMAN. I thought this was Gull Island away out here [indicating on chart].

Mr. COULBY. That is Gull Island Shoal; that little spot there [indicating on chart].

Mr. STEVENS. What is the commerce of Ashland?

Mr. COULBY. I should say about 7,000,000 tons—probably 5,000,000 tons.

Mr. STEVENS. Is it ore?

Mr. COULBY. Ore and coal and grain.

Mr. STEVENS. Lumber?

Mr. COULBY. Yes; there is quite a little lumber out there. I think possibly Captain —— can tell you about that. I am now speaking for all of our captains who have taken this matter up and made this recommendation, and for the Lake Shore Carriers' Association.

Mr. STEVENS. Which is of the more importance, the one at Gull Island, or that at Split Rock?

Mr. COULBY. Split Rock is the most important, because there is such a great volume of commerce going to Duluth. Split Rock is more important for the Ashland trade.

The CHAIRMAN. What is your next proposition?

Mr. COULBY. That is on the Straits of Mackinac. The next proposition is to give us a permanent fog signal at White Shoal instead of a light-ship.

The CHAIRMAN. What is the matter with the light-ship?

Mr. COULBY. The matter with the light-ship is that because of the fear of the running ice they do not put it out until late in the spring, and for fear of ice forming they take it in in the fall too early, for fear there will be ice, they sometimes take it in quite a little while before ice begins to form, and that is the most important turning point on Lake Michigan to-day. All the ships coming from Lake Superior and Lake Erie and Lake Huron turn there, either to make this direction or that direction [indicating on chart].

Mr. RYAN. What do they make their course by, then?

Mr. COULBY. By this light-ship at White Shoal.

Mr. RYAN. What is the trouble with that light-ship?

Mr. COULBY. As I have said, in the spring they do not put it out until all the ice has cleared out of the lakes, and in the fall they take it in earlier for fear of the ice forming. There is a good deal of current through those straits. What they want there is a permanent light, a light-house instead of a light-ship. There is the keynote, gentlemen, to Lake Michigan in the spring and fall of the year. In fact at all times.

The CHAIRMAN. You say at all times. What proportion of the vessels go down by White Shoals, and what proportion go south between Grays Reef and—what is it, Waukeshon?

Mr. COULBY. Sometimes boats go around this way [indicating], if they are going to Escanaba and Manitowoc, and sometimes Chicago; but if they can go between Simmons Reef and White Shoal they keep it to starboard going up.

The CHAIRMAN. As it is now, all your vessels coming through the Straits, coming west, come through where there are a large number of light vessels, light-ships, around there, and have to turn at a place that is not very wide?

Mr. COULBY. Yes.

The CHAIRMAN. And you want a permanent mark there, so that you can tell it at all times of the year?

Mr. COULBY. Yes.

The CHAIRMAN. The trouble there is in the spring?

Mr. COULBY. Yes, and in the fall; more in the fall.

The CHAIRMAN. More in the fall?

Mr. COULBY. Yes. The Light-House Board gets afraid of the ice and takes the light-ship away.

The CHAIRMAN. How early?

Mr. COULBY. Ten, fifteen, or twenty days before navigation closes.

Mr. RYAN. Do you mean early in November?

Mr. COULBY. No.

The CHAIRMAN. They do not take in the light-ship in the fall until it commences to freeze or there is great danger of it?

Mr. COULBY. Oh yes, they do.

The CHAIRMAN. I think that you will find that you are mistaken about that. What will that cost, on White Shoal?

Mr. COULBY. I do not know; that will probably cost more than any of them. It is deep water there. It will probably cost \$125,000 to put a permanent light on White Shoal.

The CHAIRMAN. Yes; it would be a rather expensive proposition.

Mr. COULBY. That is the most expensive of the three. The cheapest one would be the Split Rock one.

Mr. RYAN. You have one more, have you?

Mr. COULBY. Yes; we have one more only.

The CHAIRMAN. Where is this?

Mr. COULBY. Down in Southeast Shoal off the North Manitou. There is a gas buoy there now, and we would like a light-ship with a fog whistle.

The CHAIRMAN. Where is that?

Mr. COULBY. On the Southeast Shoal, off North Manitou Island.

The CHAIRMAN. The Southeast Shoal?

Mr. COULBY. Yes.

The CHAIRMAN. We now have a first-order light, or perhaps it is a second-order light, off North Manitou.

Mr. COULBY. Yes.

The CHAIRMAN. And one at South Manitou?

Mr. COULBY. Yes; but you have a gas buoy on the Southeast Shoal, off North Manitou?

The CHAIRMAN. Yes.

Mr. COULBY. The gas buoy they can not find in foggy weather. They want something there that will make a noise, so that they will have warning when there is a fog. Nearly all of the ships coming down come through that passage, and they can not tell from the Manitou buoy just how far they are off it, and they want something to designate that Southeast Shoal, so as to get through there.

The CHAIRMAN. They can tell pretty closely where they are without that.

Mr. COULBY. They can not tell close enough to get through there. That is the trouble. It is quite a little distance from that Southeast Shoal to North Manitou, and the fog whistle is pretty deceptive.

The CHAIRMAN. For the same reason they would want a light-ship everywhere where they have a fog whistle.

Mr. COULBY. They have got to keep away from this [indicating on chart] and they have to keep away from that Pyramid Point, and they want something to determine just where that is.

Mr. RYAN. Have there been any wrecks there recently?

Mr. COULBY. Yes, some. We had one boat that went on the shoals, trying to keep off South East Shoal. There was one on North Manitou last year.

Mr. RYAN. The principal commerce goes through that port?

Mr. COULBY. They are afraid to go out this way, for fear of this shoal [indicating on chart]. If they could get out this way [indicating] they have clear water up Lake Michigan.

The CHAIRMAN. Personally I want a pretty strong case before I favor a light-ship. It is expensive, and is very expensive to maintain. It costs \$5,000 or \$10,000 a year to maintain a light-ship, and on account of the depreciation it is far more expensive than anything else.

Mr. COULBY. If we can get something that can make a noise, that is all we want. The trouble with bell buoys is that if it is foggy, there is no wind, it is still. Now, we have a good many more things that are being brought up; but those, in our judgment, are the most important things and they are very necessary.

Mr. RYAN. Have any of the things you have asked for now ever been asked for before?

Mr. COULBY. No; except that Gull Island was asked for; but we were unable to agree as to just where to put it.

The CHAIRMAN. These aids which you have asked for now are located in either Lake Superior or Lake Michigan?

Mr. COULBY. Yes.

The CHAIRMAN. Are there none in the Straits?

Mr. COULBY. No; the one that I have asked for is in the Straits; that is, we call it in the Straits.

The CHAIRMAN. That is White Shoal?

Mr. COULBY. We call that in the Straits.

The CHAIRMAN. That is in Lake Michigan. But there is a long space there that is in the Straits.

Mr. COULBY. I have not heard of anybody asking for anything more in the way of permanent light-houses.

The CHAIRMAN. Do you know what we have provided up there that are not erected?

Mr. COULBY. No, sir.

The CHAIRMAN. The difficulty with us is that one set of gentlemen will appear before us at one time and insist that certain things are absolutely necessary and essential for navigation, and then another set will come before us, and they never heard of such a thing. We provided in the last Congress for a number of aids to navigation that apparently you do not think are necessary.

Mr. COULBY. I would not say that.

The CHAIRMAN. You do not know where they are, and you have not indicated that they are necessary, although last year the Lake Carriers' Association insisted that they could not live without them.

Mr. COULBY. I can go on and give you a lot of other things that are necessary.

The CHAIRMAN. I think it would be a good thing for you to go along and tell us what they are and where they are, because we want to know.

Mr. COULBY. The upper end of Saint Mary's River. Our captains ask that a light ship or a fog signal be placed on this Gross Cap. There are a lot of shoals making out here [indicating on chart]. They ask for a light ship to be placed on Gross Cap as a guide to them coming down there in foggy weather. The masters ask that a light ship be placed on Gross Cap at the head of the Soo River, right opposite Point Iroquois. There is a gas buoy there now.

The CHAIRMAN. What is it that you want there now?

Mr. COULBY. A light ship with a bell or fog signal attachment.

The CHAIRMAN. For the same reason that you want one down there? [Indicating on chart.]

Mr. COULBY. At South East Shoal?

The CHAIRMAN. Yes.

Mr. COULBY. Yes. In foggy weather they can not find the gas buoy and can not tell where it is. If they have something there to make a noise they can locate it in foggy weather.

The CHAIRMAN. What do they do now?

Mr. COULBY. They take the chance on finding it. There are a good many fellows go on the bottom on one side or the other.

The CHAIRMAN. They do not have accidents down around there very often, and if they do it is through bad seamanship. The question is whether it interferes with the speedy movement of the vessels.

Mr. COULBY. That stops them. They have to wait until it clears up and they can see the gas buoy and where it is.

The CHAIRMAN. I was out on Lake Michigan in a light-house tender last summer, and we never stopped for anything or stopped to pick up anything.

Mr. COULBY. They stop there a good deal when they can not pick up that buoy.

The CHAIRMAN. That is needed for the same reason. What else have you?

Mr. COULBY. On this question of gas buoys I did not prepare a brief.

The CHAIRMAN. The Department has authority to erect gas buoys out of the appropriation.

Mr. COULBY. There ought to be an acetylene gas buoy at that point, in that same group of Apostle Islands, on York Island. Those islands are the only place a boat can make a lee in a northeaster,

and there was a vessel lost there last year, and there were a number of lives lost. That was last season. There is nothing out there to denote the turning point.

Mr. RYAN. What are they trying to make there?

Mr. COULBY. To get in back of the island, or to come down to Duluth or Superior. It will save all this running around here [indicating on chart]. I do not think it is a question of saving life, but of saving property. The *Savona* went out there, and there was not anything to denote just where she was to turn, and she came in and struck one of these reefs, and there was a total loss. They are all now afraid of it. They could make those islands in a northeaster if they could only find something there to denote a turning point. I think that of all the places on the lake where a good buoy is needed, it is right at that place, when you take into account the saving of life and of property.

The CHAIRMAN. Do a great many of the boats make both those points coming from Duluth?

Mr. COULBY. This is right in the course, and if there is a northeaster coming down, especially they like to make the lee of the islands; but there have been so many accidents coming in there that they are all afraid of it. If they get a little too far down they are on these shoals [indicating on chart], and if they turn a little too quick they are on these shoals there [indicating]. This would make a good lee, especially for those little fellows, if they get caught out in heavy weather.

The CHAIRMAN. If you got that how long would it be before you would want a light-ship there with a fog signal?

Mr. COULBY. Probably not very long. After they began to find out what an advantage there was in being able to make the lee of those islands in heavy weather it would not be very long.

Mr. RYAN. What do they do now with a vessel that is abreast of the Apostle Islands in heavy weather?

Mr. COULBY. They have to go out and take it, unless they want to take the chance of going in there and take the risk of being wrecked.

Mr. RYAN. I would be glad if you would put those figures in the record.

Mr. COULBY. We would be glad to do that.

The CHAIRMAN. Do not take the time to do that now. Is there anything else; are there any others?

Mr. COULBY. No others that I know of, except those that I think have been provided for in the way of gas buoys for the made channels.

The CHAIRMAN. There is this in connection with the light-ship question. The Government is now experimenting, or has been, with these submarine signals, and if that is a success, as the people who know about it claim that it is, I do not know but it might be possible to have some mechanism to operate bells under water at all of these places, instead of fog signals. Fog signals are not very satisfactory.

Mr. COULBY. We are going to test that out on the lakes this year. We are going to have one or two of those submarine signals put in and test that with our ships. We are very much interested in that. But the trouble is this: They have got to have deep water for sub-

marine signals. They may work it out. We will know all about it next fall.

The CHAIRMAN. It will be a great thing if it proves successful.

Mr. COULBY. Yes. We are quite willing to expend any amount of money that is reasonable, ourselves, to test that.

The CHAIRMAN. I must leave you now, I am sorry to say. Mr. Stevens will continue and hear anything further that you may have to say. I do not know whether we can get a bill through Congress this year, or try to, or not. We have got to try to provide for some lightkeepers' buildings, because there are many places where it is out of the question to get any sort of good service in bad weather unless we provide some sort of place for the men to live close to the light-houses. Just how it will be in regard to this matter this year I do not know. We have provided more aids to navigation in the last two or three years than have been provided before at any time within the history of the country, I guess.

Mr. GOULDER. I would like to leave this thought in your mind: You know that thing is growing. It is like a boy growing out of his clothes, and it is growing more and more, and things are developing, and every year it is getting to be a more remarkable thing.

The CHAIRMAN. You mean the lake navigation?

Mr. GOULDER. Yes.

The CHAIRMAN. Yes, I understand that; but you want to remember one thing: There is no way of taking a dollar out of the Treasury without putting it in the Treasury. You gentlemen pay nothing—

Mr. COULBY. Yes, we do.

The CHAIRMAN. Practically nothing, in local or general taxes.

Mr. COULBY. We pay a lot of money back to the people in this country for what they do.

The CHAIRMAN. I am not complaining; but you do not pay much, and you always want money expended. Of course conditions should be improved and commerce should be free, in order that rates of freight should be low.

(Mr. Stevens here assumed the chair, Mr. Mann having left the committee room.)

Mr. STEVENS. In the bill that was passed last session we put in everything that was called to our attention.

Mr. COULBY. I will just state one item of freight alone.* In 1901 the movement of iron ore from this end of Lake Superior to Duluth, Two Harbors, and Superior was 10,700,000 tons. In 1906—that is the year that we have just closed—the movement of ore alone from those three ports was 25,380,000 tons. Now, there is no place in the world where as much freight is moved on a body of water of the same size as on these lakes, and there is no place in the world where we are so much dependent upon the aids to navigation—lights, light-ships, and buoys—as we are on the Lakes, for the simple reason that we can only navigate during the summer. In the winter it is frozen up. I think I can safely say that last year fully one-third of our navigating season on Lake Superior was through fog. I myself made three trips from the head of Lake Superior to the Soo on ships when we never saw anything; only once we caught the high land on Keweenaw Point.

Gentlemen, I respectfully take issue with the statement that we do not do anything for what we get. You, gentlemen, have given us

these aids to navigation through the deep channels, which have enabled us to do the increased volume of business which we have done. We have been able to do that because of these aids to navigation and the deep channels. When you get up by this point [indicating on chart] and get to going into this pocket [indicating] with your compass you do not know anything at all about it. There have been ships strewn all along that north shore from Duluth up to the head of the islands. It is absolutely necessary, and as to the reason why we have not been here before for some of these important things, I can only say that it is from the fact that our business has been growing so fast, and it has been so much in the pioneer stage, that we have not gotten ourselves together. We have had ships going ashore here and there, all along; but the trouble is that we have not gotten together. But we have now got our organization snuggled up and arrangements made by which we are keeping track of these things.

Mr. RYAN. Tell us about the Lake Carriers' Association?

Mr. COULBY. It represents every ship that sails these lakes. I am only one member of this association.

Mr. STEVENS. Does not the Light-House Board treat you well?

Mr. COULBY. Yes; and we went over this year with the Light-House Board, and they were in hearty sympathy with this.

Mr. STEVENS. When did you go over it?

Mr. COULBY. Yesterday.

Mr. STEVENS. They have made no report to us.

Mr. COULBY. Yes; it has not got around to you yet.

Mr. STEVENS. The difficulty is that every part of the country is pressing for aids to navigation, and we can not make a separate bill for each one, but they have all got to be bunched, and put into an omnibus bill; and we passed the largest bill last year that was ever passed in the history of the country, and we thought we treated the Lakes pretty well.

Mr. COULBY. You did; and we are not complaining at all; but we are glad and we are thankful for what you have done.

In coming here to-day we have not brought before you every project that every man has put forward. We did not think that it was right to come down here and ask for everything that every man asked for; but we cut out everything except what they were unanimously agreed upon was absolutely necessary. If there was any division of opinion, and some man said "I don't know about that," we did not consider it at all; but these things that we have brought up here to-day are those things that have been unanimously agreed upon as being necessities.

Mr. RYAN. We have that same thing said to us in regard to projects on the Pacific coast and the Atlantic coast, and the Gulf coast, and over in our island possessions.

Mr. COULBY. Yes; I suppose so.

Mr. STEVENS. The thing of first importance here, you say, is Split Rock?

Mr. COULBY. Yes.

Mr. STEVENS. And the second in importance would be Gull Island?

Mr. COULBY. Yes.

Mr. STEVENS. And the third in importance would be White Shoal?

Mr. COULBY. Yes.

Mr. STEVENS. And the fourth would be what?

Mr. COULBY. The fourth would be the Rough Shoals, the South East Shoals. But, gentlemen, they are all unanimously in favor of this.

Mr. RYAN. How about Manitou?

Mr. COULBY. That is Manitou Island to South East Shoals.

Mr. RYAN. I do not think they need that very badly.

Mr. COULBY. There is need for something on White Shoals. Of course it is not needed there all the time. But there ought to be a light-house on White Shoals. It is the turning point. You have got to go by there to go any place on Lake Michigan, east or west or south; you have got to go by White Shoals.

Mr. RYAN. If White Shoals was replaced by a light-house, it would be well to take that light-house down to Manitou; but I do not think otherwise it would be.

Mr. GOULDER. We have put these projects in the order of importance. We say that if we can get them all, we will be glad. But the first on our list is the first in importance in the minds of the lake navigators, and the second on our list is the second, and so as to the third and the fourth.

Mr. STEVENS. We have a hearing on Saturday on a Pacific coast project, and at that time I gave notice that I should insist on consideration of some lake projects. You had better get here what you have by that time.

Mr. COULBY. We have it here now.

STATEMENT OF MR. J. H. SHEADLE, VICE-PRESIDENT OF THE LAKE CARRIERS' ASSOCIATION.

Mr. SHEADLE. In answer to the question as to whether these things recommended are the most important things, I would say that a number of communications were presented to the Lake Carriers' Association meeting held at Detroit last week, and then a committee took those and went over them, and codified them, and they were then presented to the entire Lake Carriers' Association, and this is the result.

Mr. GOULDER. I presume that we had at that meeting considerably more than 100 individual owners and managers present. How many were there, Mr. Sheadle?

Mr. SHEADLE. How many individuals?

Mr. GOULDER. Yes.

Mr. SHEADLE. Those representing nearly 500 ships.

Mr. GOULDER. We always, as a feature of our annual meeting, have a dinner, and I think there must have been eighty at that dinner. There were at the meeting those representing every kind of interest, bulk freighters and lake lines, and big and little, and everything.

Mr. STEVENS. Do you know whether the Light-House Board would be ready to report, if we summoned them here on Friday, on any of these propositions?

Mr. GOULDER. I think they would be ready to report. I should judge—of course they have not committed themselves in anything—that they would be ready to report favorably on each of these propositions.

Mr. STEVENS. They are ready to give their opinion and information?

Mr. GOULDER. Yes.

Mr. RYAN. Without reference to the engineer in charge?

Mr. GOULDER. The engineer in charge has gone over this. That is, Captain Keller. I remember we had a joke about it; he was captain that evening, and was to be major the next day. He is now Major Keller. We went over it with him very, very carefully, and whatever may be the process, I think, my impression is, he is quite impressed with these things and the value and the necessity of them; and then if you can judge anything by the expressions made by the Light-House Board here, I should say that they were favorably impressed, that their opinion would be favorable on this. We went over with them more things than we have gone over here, and discussed them, and it was after discussion with them that we prepared our brief, and we have agreed with them to submit either a similar brief or a copy of this we have, as a memorandum for their further consideration; but I should say from their expressions that if your committee would pass this through, if we could get this through, they would be in favor of it. I think that is their mind about it.

Mr. STEVENS. There is only one safe way to protect the interests of the Government. We realize the importance of lake traffic, but the very moment we let down the bars the Pacific coast would swamp us with requests; and we always insist on a certain course of procedure, and that is the only way we can protect ourselves and the House and Congress and the Treasury, because every Congressman would come here and take his chances on the approval of the board afterwards. We want things to come up in the regular way.

Mr. GOULDER. Now, Mr. Stevens, we are extremely careful about that, or try to be, and we tried last year with the district officer and the Light-House Board, and with your committee. We try to bring forward only those things which can be thoroughly justified, not from any particular interest or point of view. Our Lake Carriers' Association, you must understand, is not one which deals with localities, with individual matters of any kind. We will not do it and do not do it. But since we are an organization, representing and including in our organization all the lake interests, we endeavor to confine ourselves, and I think have pretty successfully done so, to those things which are of and for the general interest. We try religiously to observe that rule.

Mr. STEVENS. I wanted you to realize our situation, and the fact that we have a regular course of procedure, and that it is necessary to protect ourselves and Congress.

Mr. GOULDER. Yes. We have taken this up with the district officer and with the Light-House Board, and have given them the data which we leave with you; and we believe, earnestly and seriously believe, that the things we present are those things which are of general interest, which are important, and which do, upon the closest, most perfect investigation, justify themselves as being necessary and worth the cost to the Government, to the general cause represented by your committee, and the Light-House Board. I do not think that you will find the Lake Carriers' Association ever coming, consciously, with a thing that is not of general interest to navigation, and of suffi-

cient importance. Of course, we all realize the difficulty about the money, the cost, and all that sort of thing, and we have that in mind when we figure out these things. We try to put ourselves, each one of us, in the position that you as an individual are in, as a member of this committee, and we try to take that point of view and not ask things that are not important and do not justify themselves.

And we are willing to submit this to any investigation that could be possible from any point of view, and we court that sort of inquiry and investigation into it, and we believe that we know we are right, and that no investigation could furnish any flaw at all, or do other than strengthen the representations that we make.

We leave this with you, with every assurance that that is the case. If it is not, we are mistaken; and we think we know, of course.

Mr. STEVENS. Yes; you do know, of course. We realize that.

Mr. GOULDER. It is not the vessel owner; it is not the shipper. We have now come to the point with our association where we have the masters with us. It is not the master of one fleet, but the masters of various fleets who make their reports, and the Shipmasters' Association make their report, and we sift it all out, giving a great deal more time to it than, of course, it would be possible for a committee of Congress to give to this particular department of the work, because you have so many departments; and we seek to come here to your committee and say, "Now, here is the best judgment that can be got from the people who are transacting 75,000,000 tons of commerce up there. Here is the best judgment we can give you." And we want to be reasonable about it, and we do not want to ask anything but what is reasonable.

Mr. STEVENS. You are doing just right, and we have confidence in you, and rely on you; only we want you to understand that we exact the same thing of others, and we can not give you a bite now, and another fellow a bite a month later, and another next session. We have to limit the thing. If we gave you the things that the lake people wanted, we would have the Gulf people, and the North Atlantic and the South Atlantic and the New England coast people, asking us for the same thing, and the Pacific coast people. We have to adopt a uniform plan, and take these things and bring them all together, as you do in the interests of the lakes; and in order to do that we have to rely on you, and we do rely on you in cooperation with the Light-House Board.

Mr. GOULDER. You may rely on these representations we make as being general.

Mr. STEVENS. Only, we have to exact that you have to go through the same routine that others do with the Light-House officials.

Mr. GOULDER. We do; and the only idea that I wish to convey is that we have sifted this carefully. We are not coming here without the greatest care in ascertaining what should be for the good of that commerce. We have done it, and done it thoroughly, and have done it honestly, and in good faith, and with no particular or special interest in the matter at all, but for the general advantage of that trade, that commerce, up there.

Mr. COULBY. As I understand, it is necessary to have the recommendation of the Light-House Board, and, of course, they in turn would want the recommendation of the district officer.

Mr. STEVENS. Yes; that is the uniform course of procedure. I do not think we put a single thing in the bill last year except after that course. We put in \$2,300,000 worth of work, and that represented probably 50 or 75 different projects. You see the necessity for following that course.

Mr. COULBY. Yes; I do. That is the way we have gone at it. We have boiled the whole thing down. We took the whole thing up with the Light-House Board and they have jurisdiction over such things as the placing of a few more gas buoys in the main channel; but the only things that we thought we would bring up before you gentlemen were the things that required legislation. We just took those. The Light-House Board people entirely agreed with us on the gas buoys. They said "If we get the money, you ought to have them, and we will give them to you." But legislation was required for these things.

Mr. STEVENS. Mr. Young, representing the upper peninsula of Michigan, brought up a light that he wanted at Grand Island. Is there anything more?

Mr. SHEADLE. Nothing more than this, except that there is no place of refuge between Kewenaw Point and White Fish Bay, a stretch of water of 120 miles.

Mr. GOULDER. It is more than that. It is 116 miles from Marquette to White Fish Point.

Mr. COULBY. It is about 120 or 130 miles. [Measuring on chart] 120 or 130 miles.

Mr. SHEADLE. Munissing Bay is one of the best protected bays and it has been somewhat neglected in its range lights, or rather the ranges, and vessel interests have asked that some new ranges be put in there so that they can get in. That is a very simply proposition.

Mr. STEVENS. Did your association consider that question at all?

Mr. SHEADLE. Yes, sir. We took that up with the Light-House Board. We did not know that any legislation was required.

Mr. STEVENS. I do not know that there is.

Mr. SHEADLE. It was one of the general items.

Mr. GOULDER. Yes.

Mr. COULBY. I want to thank you on behalf of myself and the committee for the kind consideration that you have given us. We have these things very much at heart, because we think we need them, not only for our ships, but to develop the commerce of the Lakes.

At 5.30 o'clock p. m. the subcommittee adjourned.

JANUARY 16, 1907.

To the Honorable Committee on Interstate and Foreign Commerce.

GENTLEMEN: We respectfully urge the necessity to the rapidly growing commerce of the Great Lakes of the following aids to navigation. These have been considered with the greatest care by our association and its committees after full conference with the masters of the ships, and they have received the earnest recommendation of the masters and pilots in their associations:

1. A light-house of the second order, with fog-signal attachment, to be erected on the north shore of Lake Superior, in the vicinity of Split Rock, Minnesota, preferably on Carborundum Point, lying about half a mile north of Split Rock. There is at present no light-house on the north shore of Lake Superior between Grand Marais and Two Harbors, and it is extremely difficult to locate Two Harbors in a fog or storm, owing to the uncertain variation of the compass on the north shore of Lake Superior, due to the vast metallic deposits in that vicinity, and also owing to the dangerous character of the

coast all along the north shore. During the past two years there have been disasters in this vicinity amounting to over \$2,000,000, the total loss of the steamer *Lafayette*, the barge *Madeira*, the steamer *Spencer*, and the barge *Pennington*, and serious damage to the steamer *Edenborn*, the barge *Manila*, the steamer *George W. Peavey*, and others.

It is the experience and opinion of masters that this is the natural place to make a landfall in approaching the head of Lake Superior, and a good light and a good fog signal at that point would greatly enhance the safety of navigation in all weathers at the head of the lake.

2. A light-house of the second order with fog-signal attachments on the easterly end of Gull Island, which lies to the extreme east of the Apostle Group of Islands at the head of Lake Superior. A year ago the steamer *William E. Corey* went ashore on this submerged reef, resulting in a loss of about a quarter of a million dollars. Last fall the steel steamer *Ireland* went ashore in the same place, resulting in a loss of about \$200,000. There is a light-house on the westerly end of Michigan Island, of which Gull Island is a continuation easterly, but the Michigan Island Light can not be seen by mariners approaching from the eastward until they are abreast of the light. Michigan Island Light was established many years ago when there was no trading into Ashland, and was a guide to mariners from the Portage Canal and Ontonagon to Bay Field before the development of the great ore shipping point of Ashland.

3. The establishment of a permanent light-house of the third or fourth order, with a fog-signal attachment, on White Shoal Straits of Mackinac. This shoal is now marked with a light-ship, but through fear of running ice in the spring and fall, this light-ship can not be put in position in the spring until late, and is taken in early in the fall before navigation closes, leaving the shoal with no visible mark as a guide to the masters. Furthermore, this in the development of navigation has become the turning point for ships navigating either way through the Straits of Mackinac.

4. The establishment of a light-ship with fog-signal attachment on Southeast Shoal, North Manitou. Very important and rapidly increasing commerce is passing this place, which is right in the main track of ships trading to the upper end of Lake Michigan, and in which vicinity there have been serious disasters within the last few years.

Respectfully submitted for your favorable consideration.

THE LAKE CARRIERS' ASSOCIATION.
By J. H. SHEADLE, *Vice-President*.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE.

HOUSE OF REPRESENTATIVES.

Washington, D. C., Friday, January 18, 1907.

The committee met this day at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

STATEMENT OF HON. FRANCIS W. CUSHMAN, A REPRESENTATIVE FROM THE STATE OF WASHINGTON.

Mr. CUSHMAN. Mr. Chairman, I wanted to bring a matter to the attention of the committee this morning, and perhaps it will take me seven or eight minutes.

The CHAIRMAN. We have a special order this morning, but I suppose your statement is short.

Mr. MANN. I may say, Mr. Chairman, in that connection that there are several other gentlemen here with light-house projects who would like to be heard. Mr. Green, of Massachusetts, asks for a light vessel, and he has some constituents here who wish to be heard on that subject.

Mr. CUSHMAN. I have no objection, and can only say to the committee that my presentation of it will not take any considerable

length of time, and I am willing that any gentleman should comment upon it.

The matter that I wanted to bring to the attention of the committee is Senate bill 6003, which passed the Senate on the 10th day of May, 1906, a year ago. That bill provides in substance for the location and maintenance of a light-ship on Forty-Fathom Bank, off the entrance to Puget Sound, at a point known as Swiftsure Bank, and at a cost not to exceed \$150,000. Heretofore, when I had this matter up, it was suggested by one member of the committee that the omnibus light-house bill which was passed a year ago, being H. R. 19432, and which was approved June 20, 1906, made general provision for all of the light-house districts in the United States, and that inasmuch as my State of Washington had been amply provided for on that bill, perhaps I ought not at this time to call up a special bill. I simply wanted to remark in passing that that general omnibus light-house bill which was passed a year ago carried appropriations for the light-house service to the extent of \$2,067,000, and of that amount there were two projects only cared for in the State of Washington, at a total of \$15,000.

Now, I merely mention that to show that in the bill of a year ago I did not commit a rape on the Treasury.

Mr. MANN. Will you permit me to call your attention to the fact that your figures are erroneous, both as to the amount of the bill and as to the amount carried for the State of Washington?

Mr. CUSHMAN. I was going to modify that statement, so far as to say that the items provided for in the Thirteenth light-house district, in which my Congressional district is situated, aggregated \$380,000; but the only two light-house establishments provided for in my State were a keeper's dwelling at Robinsons Point and a fog signal at Ediz Hook; the keeper's dwelling to cost \$5,000, and the fog signal to cost \$10,000, making in all \$15,000.

Now, there was also a provision to provide a light at the mouth of the Columbia River. There was a light tender provided for the Thirteenth district, and a light provided for at Cape Hinchinbrook, Alaska. The two items for my State, however, aggregated only \$15,000.

Mr. RYAN. To what State do you credit the Columbia River item?

Mr. CUSHMAN. The State of Oregon. When the upper Columbia River is improved it may be of benefit to the State of Washington, but at present the commerce of the Columbia River is chiefly advantageous to the city of Portland, Oreg.

Coming to this bill, Senate bill 6003, a year ago, when this matter was under consideration, Senator Piles, of the State of Washington, secured the passage through the Senate of this independent bill providing for this light-ship. I was unable at that time to get it favorably reported here, and therefore I called the attention of Senator Piles to the matter and suggested that he secure its insertion in the sundry civil bill in the Senate, and he did it last year, providing for an appropriation of \$150,000 for a light-ship. It went to conference, and the conference committee would not agree to the retention of that item, and therefore, in a legislative sense, it was struck out. But through an error in the office of the enrolling clerk, the item was retained in the bill and signed in that form by the President and

printed in the law. I deem it proper to state, however, that neither Senator Piles nor myself ever attempted in any way to take advantage of that, and at the beginning of this session, at the suggestion of Mr. Mann, the gentleman from Illinois, I went to the House Committee on Appropriations and had that Committee insert in the urgent deficiency bill, which was one of the first general appropriation bills of this session, an item repealing that item, and that was passed and approved in the early part of this session—approved on December 19, 1906; so that I stand, in a legislative sense, I think, with clean hands, where I did last session.

Mr. MANN. There is no doubt about that at all, Mr. Cushman. Nobody will question that.

Mr. CUSHMAN. Now, coming directly to the merits of this bill, I thought perhaps my side of the matter might be aided a little bit by means of a chart or map, which I have prepared. One of the things which it seems to me is important in the consideration of this question is how much shipping goes in and out of Puget Sound. The place where this light-ship is proposed to be located is at the entrance of Puget Sound, as I said in the beginning, and practically every ship that comes in and every ship that goes out of Puget Sound must pass this point. The only exception to that rule is in the case of ships leaving Seattle and Tacoma, going up to southeastern Alaska, and to Vancouver and Victoria, B. C.

Now, in order that the committee may have some understanding of the magnitude of the shipping there, I had a little statement compiled showing the relative number of vessels in the foreign trade coming into Puget Sound as compared with those coming into San Francisco and those coming into the port of Boston for the year 1906. I wish the committee would give me their attention while I read these figures.

The number of vessels that entered Puget Sound (foreign) for the year 1906 was 1,974—almost 2,000 vessels; the number that entered San Francisco (foreign) during that same period was 397; the number entering Boston (foreign) during that same period was 1,635, showing more foreign vessels entering Puget Sound than entered the harbor of Boston, and a great many times more than entered the harbor of San Francisco.

Mr. MANN. Are you sure those are foreign vessels out there, or are they vessels coming mostly from Alaska?

Mr. CUSHMAN. No, sir; they are foreign vessels. The vessels from Alaska are in the coastwise trade. I went to the Bureau of Statistics and also the Treasury Department, and they have no figures showing the coastwise trade.

Mr. MANN. Did you get these figures from the Bureau of Statistics or the Government engineers?

Mr. CUSHMAN. From the Bureau of Statistics.

Mr. STEVENS. Which way would the Alaska commerce come—inside the passage or outside?

Mr. CUSHMAN. Both ways. That from Skagway and Sitka and Ketchikan goes out in the inside passage. The boats going up to Nome and Valdez and St. Michael and the mouth of the Yukon River go out this way [indicating on map], so that the Alaska trade is divided in that respect.

The CHAIRMAN. Those vessels that come in through this passage for Victoria and Vancouver—do you count them as vessels entering Puget Sound? Would they be included in the 1,900 that you have mentioned?

Mr. CUSHMAN. That would depend entirely upon whether or not they were foreign vessels and coming to American ports. If they were foreign vessels, and after touching at Victoria and Vancouver came on into American territory, then, in my opinion, they should be counted.

Mr. MANN. I think you have an erroneous notion about the information of the Bureau of Statistics with respect to foreign vessels. A foreign vessel is a vessel that clears to and from a foreign port; and most of the vessels that are marked as being in the foreign trade and as coming into Puget Sound are, to my notion, vessels that clear from just across the Straits.

Mr. CUSHMAN. Oh, I beg your pardon. Perhaps I did not apprehend the full meaning of the chairman's question. I thought he wanted to know whether the vessels that came from China and Japan, etc., and first touched at Vancouver and Victoria were counted. They are; and also those vessels plying between Victoria and Vancouver and the American side are counted.

Mr. MANN. A great many of those are what would be coastwise trade in any other place in the United States, except where they come in at the boundary line of the United States and a foreign country.

Mr. CUSHMAN. That is largely true.

Mr. STEVENS. But these figures do not include the vessels bound from San Francisco and other southern ports into Puget Sound?

Mr. CUSHMAN. No, sir; the coastwise trade of that region is very large.

Mr. STEVENS. That is what I was going to ask you.

Mr. CUSHMAN. Yes; it is a very large coastwise trade.

I will also read the figures covering vessels that cleared from the Puget Sound district. There were 2,020, and during the same period there cleared from San Francisco 382 vessels, and there cleared from Boston 1,464 vessels. Now, I thought those figures were important as showing the large number of vessels entering and leaving Puget Sound.

Mr. BARTLETT. Is that anywhere near where the terrible accident occurred?

Mr. CUSHMAN. Very near. I will refer to that in a moment.

The CHAIRMAN. Will you point out on the map there the situation of Victoria?

Mr. CUSHMAN. Yes, sir; Victoria is right here [indicating on map]; and for the benefit of the committee I will say, in explaining this map, that this [indicating] is the forty-ninth parallel here, representing the international boundary line. All of this [indicating] is the State of Washington. The international boundary line runs out along the forty-ninth parallel to the middle of Georgia Straits at this point [indicating] and then runs down, following practically the center of the water course, around here [indicating], and out to there [indicating]. This large island right in the jaws of Puget Sound is Vancouver Island, right in the heart of British territory.

The CHAIRMAN. Where is the port of Vancouver?

Mr. CUSHMAN. Right here [indicating].

The CHAIRMAN. So that vessels plying between Puget Sound ports and Vancouver and Victoria would not pass the point of danger?

Mr. CUSHMAN. No; that applies to local boats. But many of the boats from China and Japan make the port of Victoria, and then come down to the Sound. Those boats would make that point.

Mr. MANN. All these local boats are included in your list?

Mr. CUSHMAN. Yes, sir.

Mr. MANN. If there is one boat making a daily call, the report would show 365 foreign vessels?

Mr. CUSHMAN. Yes.

Mr. MANN. That absolutely destroys the value of those statistics as compared with those covering the port of Boston and San Francisco.

Mr. CUSHMAN. By no means, in my judgment; because those vessels, of course, would not pass this particular point; but I suppose of the total number of vessels I have quoted, even if two-thirds of those were the local boats that would pass this point, the number of vessels which do pass is much greater than the number going in and out of the Golden Gate. I think that is true.

Mr. BARTLETT. Have you any way of ascertaining the number that go up toward Nome and Valdez and the mouth of the Yukon River?

Mr. CUSHMAN. There are perhaps two boats a week going out and two coming back in that Nome business.

Mr. MANN. Have you examined the reports of the Government engineer to find out how many boats really passed out at this point?

Mr. CUSHMAN. No, sir; I have not.

Mr. STEVENS. Can you tell us about the extent of the commerce south from San Francisco—what size of vessels and how many that would need this light?

Mr. CUSHMAN. The principal company there is known there as the Pacific Coast Company. They have a larger number of vessels plying between Puget Sound and San Francisco than any other company. I think they have five or six vessels in that trade. It is the principal company.

Mr. STEVENS. There is no other coastwise corporation?

Mr. CUSHMAN. There is the lumber trade, engaged in by sailing vessels.

Mr. MANN. Those are tramp steamers?

Mr. CUSHMAN. No; not by any means. They have been running regularly in that trade ever since I have been there—sixteen years. Perhaps two or three times a year making regular trips—sailing schooners and sailing ships. I would not call a steamer of that kind a tramp ship.

Mr. MANN. You ought to revise your vocabulary then.

Mr. CUSHMAN. In my country a tramp ship is one that may come in one year and not come in the next.

Mr. BARTLETT. A tramp ship is one with no definite destination to which a cargo is to be carried.

Mr. GAINES. What do you say is a tramp ship?

Mr. CUSHMAN. My understanding of the term is that it is a ship that engages in the carrying trade between certain ports one year,

for example, and not finding it, gets employment that is more profitable at other ports, and changes its port and gets a cargo.

Mr. BARTLETT. Having no definite route at all, except as business may require it.

Mr. KENNEDY. What would be the relative advantage of this improvement accruing to each of the two nations?

Mr. CUSHMAN. While there would be an advantage, of course, accruing to both of them, the chief advantage would accrue to the American people, because we have a greater trade passing that point. The cities on the American side are larger, and there is more shipping comes to and goes out of the cities of Seattle and Tacoma by far than Victoria and Vancouver.

Mr. BURKE. The location of this light-ship would be almost on the international boundary line?

Mr. CUSHMAN. Almost. They told me, according to the location given me by the light-house people, that it would be wholly within the American waters. It would be about 13 miles out, and if this line [indicating on map] were extended, of course it would show the light-ship in American waters.

Mr. RYAN. Will you point out there on the map where the present aids to navigation are located, and tell us what they are?

Mr. CUSHMAN. Yes. The principal aid to navigation in this immediate vicinity is one light, a first-order light, located at Cape Flattery, visible at 19 miles.

Mr. MANN. It should be visible at 17 miles.

Mr. CUSHMAN. I got my information from the Light-House Board. They have it quoted as 19 miles, but I would not put that up against the opinion of my friend from Chicago.

Right across from that, at a distance of about 12 miles, on the British coast, is Carmanah light, being a somewhat similar light—a flash-light—one flash at an interval of sixteen seconds, and another at an interval of thirty seconds; and that is also visible, the people in the Light-House Board tell me, at a distance of 19 miles.

Mr. RYAN. Who maintains that light?

Mr. CUSHMAN. The British Government—the Canadian Government.

The other light is at Cape Beale. It is 22 or 24 miles from Carmanah up to Cape Beale. There is another similar light located at Cape Beale.

Mr. RYAN. There are no lights at the mouth of the river?

Mr. CUSHMAN. No; on the night when this wreck occurred to the *Valencia*, on January 22, 1906, all night long these lights were plainly seen. The keeper of the Carmanah light could see Flattery light, and the keeper of the Flattery light could see the Carmanah light. Clear across that stretch, however, at the time there was a dense fog lying offshore, far enough off to prevent the keepers from seeing the fog, and they did not have their fog signals going, because they did not know the fog prevailed offshore. The master of the *Valencia* was steaming out here in the fog [indicating on map], vainly seeking for the signal.

Mr. STEVENS. Are there not some lights to the south of Cape Flattery?

Mr. CUSHMAN. Yes.

Mr. STEVENS. Where are they?

Mr. CUSHMAN. Here is one out here [indicating], near the Umatilla River.

Mr. STEVENS. What is the radius of that light?

Mr. CUSHMAN. I do not know exactly what that is. I do not know whether the light is visible quite as far as the Flattery.

Mr. RYAN. Is it within the radius of that?

Mr. CUSHMAN. In clear weather they are about 14 miles apart. I say, they are visible in clear weather, being about 14 miles apart.

Gentlemen, I do not want to string this out too long, but I did want to say a word or two about the conformation of this coast. The Island of Vancouver lies right across the path of the ships taking this course. When they get up to this point [indicating] they must carefully locate the entrance of the Straits, and if they do not they inevitably go ashore, on the rocky shore of that island, and in the last 50 years I believe there have been about 60 ships destroyed in that region, with a loss of something like 700 lives. I have a record, or at least a statement, regarding those wrecks here, but as it is rather lengthy, I will not read it unless the committee desire it.

Mr. WANGER. At what point was the *Valencia* lost?

Mr. CUSHMAN. Right here [indicating].

Mr. WANGER. Midway between those Canadian lights?

Mr. CUSHMAN. Yes.

Mr. MANN. I have no desire to have you read those accidents there, with the loss of 60 vessels; but have you any explanation why, with all the losses of vessels at that point, no Representative in Congress, no inspector of the Light-House Board, nobody connected with the Light-House Service, or the Government, has ever recommended any additional aids to navigation at this point until a year ago?

Mr. CUSHMAN. I think the explanation is very easy. That accident or catastrophe, which occurred a year ago, brought that matter very forcibly to the attention of everyone connected with the shipping service. You know everything must have an inception at some time.

Mr. MANN. I understand, of course, how slow the people of the Pacific coast are, but do they usually wait for 60 vessels to be lost before they become aroused to a realizing sense of the danger?

Mr. CUSHMAN. If that accident had happened ten years ago you would have said they waited 40 years.

Mr. MANN. Yes; and if it had happened 20 years ago it might be said you waited 30 years. Why was it not brought up before?

Mr. CUSHMAN. I was explaining that matter—

Mr. MANN. I am asking you for an answer, if you have one.

Mr. CUSHMAN. I say, the matter was brought more particularly to the attention of the people out there by the fearful wreck of a year ago than at any other time.

Mr. TOWNSEND. Can you tell whether there is any international arrangement between this country and Canada with reference to the construction of light-ships and light-houses?

Mr. CUSHMAN. I believe there is an international arrangement only in connection with the fact that the character of the different lights and the flashes are known to both nations, so that when vessels coming up here see this light [indicating] with the fifteen seconds' interval and the thirty seconds' interval, they know that is the Carmanah light. When they see a thirty-two second interval and

a flash and another thirty-two second interval, they know that is Cape Beale.

Mr. MANN. The Hydrographic Chart gives all that information. There is no international arrangement about the maintenance of the lights?

Mr. CUSHMAN. None that I know of.

Mr. BURKE. How extensive was the loss of life on the *Valencia*?

Mr. CUSHMAN. There were 172 people on board, and 136 of them were lost.

Mr. WANGER. Do you know how recently any of those existing aids to navigation have been constructed?

Mr. CUSHMAN. The Flattery light has been there for a good many years. That is the one at this point [indicating]. The British Government are now installing another light at this point—Beeghados Point [indicating]. That light is being installed now, and it was not there a year ago, at the time of the wreck of the *Valencia*.

Mr. BURKE. Which way was she proceeding when wrecked, and where did she come from?

Mr. CUSHMAN. She was coming up from San Francisco, a distance of 689 miles. After she left San Francisco she came up 189 miles to Cape Mendocino, and after that time she steamed practically 500 miles without seeing a light or hearing a signal or sighting a headland, or anything of that kind.

What caused the wreck was a condition something like this: There is a strong current in this region—a current that flows not only in, but out of the Straits, 12 miles wide, and there is a rise and fall of the tide of 8 feet at that point, which you can readily see [indicating on map] makes a very strong tide here and outside; and that is complicated further by what is called the Davidson current, of which the tide experts know very little.

Mr. STEVENS. Is that a steady current or a changeable one?

Mr. CUSHMAN. It is a very changeable current. It runs both ways at certain seasons of the year, and then is very variable. I would like to read one brief statement in regard to that current from the Senate report on this bill, it being the language of the commission that investigated this wreck of the *Valencia*. The report says:

Currents.—There exist in this locality varying currents of great force and generally little-known direction which constitute a peculiar danger to navigation. The so-called "Davidson inshore current" is an occasional phenomenon running northward at from 1 to 3 knots an hour along the coast of Oregon and Washington and the coast of Vancouver, its existence and force depending considerably upon the winds, and being peculiarly incalculable, because it may be governed by winds far out at sea and totally different from the winds at the location where a given vessel may be. Sometimes this current disappears entirely, and even at times goes in an opposite direction.

It is further complicated by the strong tides flowing in and out of the entrance of these straits where the rise and fall of the tide is about 8 feet. It was primarily due to a northward current of this sort that the *Valencia* went ashore. The log of the *Valencia* when she went ashore gave a distance run from San Francisco which would have placed her at about opposite Cape Flattery, although she was actually 25 miles north of that point, due to this current, which the log, of course, could not register. Prof. George Davidson, of San Francisco, for whom this current is named, and who is probably one of the highest experts on Pacific coast currents, stated emphatically that he nevertheless knew very little about this current, and that its force and direction were largely unknown.

Now, go back a moment, as I said the master of this vessel came out from San Francisco Harbor and came about 189 miles north, and he was then just about 500 miles south of this point. He was offshore far enough to be out of danger, though completely enveloped in fog, and he steamed for 500 miles without being in sight of a single light or beacon of any kind. Endeavoring to locate this point and round the turn, he thought his log was overrun; that is, that the log gave a greater indication of the distance covered than the vessel had really covered, whereas as a matter of fact this current was bearing him on at a greater speed than he thought, so that at the time he was trying to round this point here [indicating], believing himself to be near Cape Flattery, he was as a matter of fact over near the coast of Vancouver Island.

That is one of the things that caused that wreck. I do not pretend to say that there was no faulty navigation in that case, or perhaps in many of these other cases; but anyone can readily see that when a man has been out of sight of land for 500 miles, running in the Pacific Ocean, with all these varied and changing currents, it is a very difficult matter to locate himself accurately; and if he is trying to keep in near shore, to locate a light on shore, he may get aground. On the other hand, if there was a light-ship located out here [indicating] where the water is deep, there would be no danger of a vessel getting ashore while endeavoring to locate the light.

Mr. TOWNSEND. Did the Light-House Board, at the time we took up the omnibus light-house bill, have all these facts before them?

Mr. CUSHMAN. I think not.

Mr. MANN. They did. They had all the facts before them. And it is fair to say that while they did not desire this item put in the omnibus bill, they did report favorably upon the individual Senate bill.

Mr. CUSHMAN. My understanding of the Light-House Board is that they feel there is an urgent need for this light-ship, and not only that, but they go to the further extent of saying that they think this light-ship is more urgently needed than any other light-ship that has been suggested or asked for.

Mr. MANN. They never intimated that to the committee.

Mr. BURKE. Have you got their report on the Senate bill?

Mr. STEVENS. That does not indicate it. We want the report as to the comparative project.

Mr. CUSHMAN. As to that—

Mr. STEVENS. As I understand it, this matter was submitted to the Light-House Board for their investigation of the relative importance of various projects. They did not put this in their report as of the first importance.

Mr. CUSHMAN. I do not think they did.

The CHAIRMAN. I understand their report on the importance of this project was based upon the limitation of the gross appropriation.

Mr. CUSHMAN. That is true, absolutely.

Mr. BARTLETT. The question was put, as I understand, in this way: Providing we appropriated so much money for light-houses, which do you think the most important? That was the question put to Captain Sebree.

Mr. GAINES. What was Captain Sebree's answer to that question?

Mr. BARTLETT. He designated certain places.

Mr. MANN. As to Captain Sebree, of course I do not like to quote Captain Sebree—he speaks for himself, and nobody has the right to speak for him—but the impression I received from my talks with the Light-House Board last year, when we were making up the omnibus bill, was that they never had regarded this as a matter of great importance until this going ashore of the *Valencia*, and that attracted their attention to the matter; that they were investigating it; that they did not give very much consideration to the report of some non-experts who constituted the commission who investigated the subject of the *Valencia* disaster, and they wanted to make a more complete investigation through their inspector and the other officials out there during the last summer.

Mr. CUSHMAN. That may be true.

Mr. MANN. I do not know what the result of this investigation was, or what conclusion they have reached in reference to it.

Mr. CUSHMAN. Perhaps I ought not to quote Captain Sebree in his absence; but he said to me yesterday, when I talked with him last about this matter, that he regarded this as the most important light-ship; that is, as a project which was needed more, and more justified by the situation existing there, than any other light-ship in the United States.

Mr. RYAN. That is, that had not already been provided for?

Mr. MANN. I think that was partly because of the persuasive eloquence and hypnotic power of the distinguished gentleman from Washington.

Mr. RYAN. The Senate increased the amount of the omnibus bill by nearly a million dollars, and did not include this item?

Mr. CUSHMAN. The Senate did put into the Senate bill this particular item, but the House failed to retain it in the bill.

Mr. MANN. They wanted so much more that this went out.

Mr. ESCH. There would be five lights at the mouth of the Straits of Juan de Fuca, which, with the new one that the British Government is establishing, would make six. Now, it occurs to me that perhaps the multiplicity of lights might confuse the navigator going in.

Mr. CUSHMAN. I do not think so, for this reason—

Mr. STEVENS. How many lights have a radius that reaches that point there on the map [indicating]?

Mr. MANN. The fog signals have a capacity that reaches that point. There is no trouble about that point. It is contended, however, that there frequently arises a local fog bank out at the point where vessels coming from the south would turn east to go into Puget Sound, and that it is very important that vessels should know what point to turn, because if they drift beyond the point they will run on Vancouver Island, and if they turn too quickly they will run on the mainland.

These local fog banks that arise out at about the turning point obstruct the light at night, and also are an obstruction and resistance to the sound of the fog signals. When the vessel is in the fog the light is not visible, and it is claimed, I presume conclusively and properly, that when a vessel is in that fog bank the fog throws off the sound practically as a building would, and hence they can not hear the fog signals.

So far as that is concerned, I have no doubt, myself, that a light there would be of some value, and the only question to my mind is whether we shall throw off everybody else in the United States that wants lights. Here is Mr. Greene, of Massachusetts, that wants a light just as important as yours [addressing Mr. Cushman]. Here are some gentlemen, and we had others the other day, who want lights more important than yours. The question is whether we shall report out individual light bills or make up another omnibus bill.

Mr. CUSHMAN. Mr. Chairman, I have taken up too much time already, but with one more statement I will close. Not only is what Mr. Mann said true with reference to fog signals, but a part of the report of the *Valencia* Commission shows that when they were out there making the examination they had their ship a mile and a half beyond this point when there was no fog, and they could see the steam coming out of the fog signal repeatedly, time after time, but they heard no sound.

Mr. MANN. I have read that statement, but I do not believe it.

Mr. ADAMSON. They said they heard no sound.

Mr. KENNEDY. That would be altogether possible in a high wind, if the wind were blowing from them.

Mr. BURKE. How many items did the Senate put in last year besides this that went in the House bill?

Mr. CUSHMAN. I think they put in Hinchinbrook light.

Mr. MANN. We passed the bill in the House for \$1,300,000 and odd, and the Senate passed it carrying over \$1,900,000 and odd.

Mr. CUSHMAN. The Senate added, in addition to what the House put in, this light vessel that we are now discussing, \$150,000, and a light and fog signal at Cape Hinchinbrook, Alaska, \$75,000. The House retained the Hinchinbrook fog signal and eliminated the other.

Mr. MANN. The House retained the Hinchinbrook item and increased it from \$75,000 to \$125,000 in conference, because they said they could not build it for \$75,000.

Mr. BURKE. They must have selected that as being the more important of the two.

Mr. CUSHMAN. I presume that was the opinion of the gentlemen who were framing the omnibus bill.

Mr. MANN. May I ask you another question?

Mr. CUSHMAN. Certainly.

Mr. MANN. You have referred to what the State of Washington did get in the omnibus bill. At the last session of Congress did we not provide, through this committee and through Congress, a considerable sum for the establishment of a new life-saving station for the entrance of Puget Sound, and in addition provided for a life-saving seagoing tug, the only one in the world, for the benefit of your territory?

Mr. CUSHMAN. That is true.

Mr. MANN. So that we were not exactly niggardly with you?

Mr. CUSHMAN. No; I do not mean to assert that. Of course I am earnestly in favor of this bill, and my people are. They feel and I feel that it is needed, and I present it as earnestly as I can. But I want to say in conclusion that even though I am a member of this committee I would not hold out for a moment against a member of

the committee if he felt after consideration that he was not justified in voting to report this bill.

You can understand, gentlemen, the feeling out there that was created in that region when this boat went ashore there, and hung there for thirty-six hours before she went to pieces, and 136 people washed into the sea. That thing has occurred year after year. I have here, as I stated a few moments ago, a list of about 60 vessels that have been wrecked there in this general location—not all on that precise point, but most of them on the shore of Vancouver Island, and most of them from the primary cause that they were trying to locate that entrance and failed to do it.

FRIDAY, *January 18, 1907.*

The subcommittee this day met. Present: Messrs. Stevens and Ryan.

**STATEMENT OF HON. WILLIAM S. GREENE, A REPRESENTATIVE
FROM THE STATE OF MASSACHUSETTS.**

MR. GREENE. I appear here in behalf of Senate bill No. 4014, to construct and place a light-ship near the eastern end of Hedge Fence Shoal, at the entrance to Vineyard Sound, Massachusetts. The bill authorizes the Secretary of Commerce and Labor to have constructed near the eastern end of Hedge Fence Shoal, at the entrance to Vineyard Sound, Massachusetts, a light-ship, to cost not exceeding \$100,000.

I think I have argued before this full committee and the subcommittee also in regard to the necessity for this light-ship. The shoal there is very dangerous. I have received a great many letters from seafaring men and from the business interests of Boston, who are more directly interested in this proposition.

MR. STEVENS. Please state what commerce goes by there?

MR. GREENE. The entire commerce between Boston and New York, and the commerce is larger in extent than at any other place in the United States, notwithstanding the remarks that were made by my friend this morning.

MR. RYAN. What is the purpose of the light-ship?

MR. GREENE. To protect the vessels from going onto this long shoal, which extends nearly a mile.

MR. RYAN. What protection have they now?

MR. GREENE. Nothing but a gas buoy, which was placed there last year by the Light-House Board, about where this light vessel will be stationed.

MR. RYAN. Have you had a great many wrecks or disasters there?

MR. GREENE. I can furnish a map showing the wrecks that have occurred there within the last twenty-five years. They are so great in number that I would not be prepared to count them. They go up to a very large number. This is to be an aid to navigation especially because it is very much needed and the danger is on account of the thick fogs that envelop this sound.

MR. RYAN. What was provided in the bill last year close by that locality?

Mr. GREENE. I think the nearest is the Nobska light, which is on the other side of the sound.

Boston is getting to be quite an ancient city, and has already celebrated its 276th anniversary. I speak simply for the needs of commerce. This is not anything that would materially affect my district, although it is located in the district which I happen to represent. It runs between the districts represented by Mr. Lovering and myself, but the light will be located within the confines of the district which I represent; but it is not especially for the commerce of my district, it is for the commerce of the nation. It is the great water highway connecting the northern and southern coasts of the Atlantic.

Mr. STEVENS. Does any of the foreign commerce from New York pass that point?

Mr. GREENE. I do not think it does.

Mr. STEVENS. Does the commerce coming from the Maine coast to New York pass that point?

Mr. GREENE. Yes, sir.

Mr. MORSE. The steamers that make two ports pass there. We have a large number of steamers that come to Boston and discharge a cargo, but unfortunately, owing to the inland rates, we are not able to furnish satisfactory ones, and they go from there to Baltimore or Philadelphia, or Newport News to load up. The Antwerp line at every sailing does that. The Hamburg line does the same thing, and tramps are incessantly coming with cargoes and going south for back cargoes. All shipping from the south, north of Cape Cod, pass through this sound.

Mr. GREENE. There is to be a passenger line established by the New England Navigation Company, which is a branch of the business of the New York, New Haven and Hartford Railroad. They are to open a new passenger line from Boston to New York, which will be put in operation this coming summer. There is a number of prominent passenger lines that go through the Sound. There is to be an additional line that will carry passengers. This is really in the interest of commerce, not alone of the district I represent, for I do not claim it affects the commerce of that district so much as it does the commerce of the nation. I am not speaking for it only from the fact that it happens to be my duty to put it in here.

Mr. STEVENS. Will it cost more than a hundred thousand dollars?

Mr. GREENE. Yes, I think we will probably have to come for an additional sum later, probably fifteen thousand dollars. The bill which has already passed the Senate provides for \$100,000, but all the money would not be expended at one time.

Mr. RYAN. They will not construct it unless they have a sufficient sum.

Mr. GREENE. I think it would be as well to amend the bill so as to make it \$115,000.

Mr. STEVENS. What report has the Light-House Board made?

Mr. GREENE. They have made a favorable report.

Mr. STEVENS. They report favorably on almost every project.

Mr. GREENE. I do not know what the report is. I do not say they say it is the most important project.

Last year I had two light vessels authorized by this committee and by Congress, but they were not new light vessels. One was to replace

the vessel anchored at Nantucket and the other was to replace the light at Hen's Chicken that had been there sixty years. The old one was not sufficient and they had to put in a steam fog whistle on account of the increased travel. Those two are located in my district, but they were in no sense new. This is the first I have called for in the way of a light vessel; all the others were replacements.

Mr. RYAN. Is there no aid to navigation there now?

Mr. GREENE. There is a gas buoy.

Mr. RYAN. But prior to last year was there nothing there?

Mr. GREENE. I think not.

Mr. MORSS. There was a spar buoy at each end.

Mr. GREENE. This proposition has been before the House at previous times and has been favorably reported by the Senate, but has not come out of this committee. I only speak of that so that whatever may be said about the bills allotted last year, they were not in any sense new projects. They were old projects; simply renewals. The vessel now at Nantucket has recently almost gone out of commission. She has had to be repaired on account of the failure of her boilers. The vessel stationed there is entirely inadequate for the position she holds. She is 42 miles off the coast and is the first vessel seen by the foreign steamers. The wireless station is also there.

Mr. RYAN. Have the masters of the vessels passing this point objected very much since the buoy was placed there?

Mr. GREENE. Yes, sir; they still say that it is unsafe. They say that the gas buoy is only in use at certain seasons of the year. When the ice comes they take it up. It gets out of order. It is not a satisfactory guide to navigation because sometimes it turns over. It is not as permanent by any means as would be a light vessel.

There is another matter, Senate bill 3409, which provides for the construction of an able seagoing tug for the Revenue-Cutter Service for New Bedford, Mass.

Mr. STEVENS. This subcommittee has no jurisdiction over that matter.

Mr. GREENE. Very well.

I would like to have Mr. Daniel D. Morss, secretary of the Boston Chamber of Commerce, give you some views in relation to this matter. He knows what is needed by the maritime interests of Boston and also of New York.

Mr. STEVENS. We shall be very glad to hear Mr. Morss.

STATEMENT OF MR. DANIEL D. MORSS, SECRETARY CHAMBER OF COMMERCE, BOSTON, MASS.

Mr. MORSS. I did not come to Washington with any idea of getting a hearing in this case. I came as a delegate to the National Board of Trade and have not any figures.

Mr. GREENE. You can furnish them?

Mr. MORSS. Yes, sir. As to the amount of tonnage which passes through there I believe there is a dispute between the people of the Detroit River and those interested in the Vineyard Sound as to which carries the greatest amount of tonnage. Either one carries more than any other place in the world. Every vessel engaged in trade between any of the southern ports and the ports north of Cape Cod passes through this sound. This particular shoal is about a mile and

a quarter long, running lengthwise of the sound. The idea is to place this light-ship on the eastern end of the shoal so that vessels coming west, especially steamers, who have to go through, no matter what the weather is, can have the benefit of it.

In case it is thick weather they are unable to see Nobska light, which is 4 miles from this point. If they can hear the fog horn they can locate the shore and go either north or south, as they see fit. The steamships are interested mainly. The sailing vessels, when the weather is bad, can anchor and wait. Many of these vessels go through there carrying from 5,000 to 7,000 tons, some of them drawing 28 feet of water, and the draft of the vessel decreases the amount of the channel's width, which they can use in beating back and forth—it is lessened. When we found that this bill was not going through last year I had a talk with Captain Sebree to see if he could not relieve the situation, and he very kindly had the gas buoy placed there. The captains have expressed themselves very much gratified to get that much, but that gas buoy has three objections. In the first place, it is not permanent. A great many tows go through there, as you have heard, and some of them have carried the gas buoy off. They go through with a rush, and if the man steering the boats that are towed is careless in any way they are apt to pick up the buoy and carry it out of position, which makes it worse than if it were not there. In the winter time in a storm where there is spray the apertures through which the air is admitted to keep the lamp burning are ordered to be closed up.

Mr. RYAN. Have either of those two objections occurred since the buoy was established?

Mr. MORSS. Yes, sir; they have taken it up already, and it is out of commission now, right at the time of year when most needed.

Mr. RYAN. Why?

Mr. MORSS. On account of the ice closing it up and putting the light out. It then becomes an obstruction rather than an aid to navigation.

Mr. RYAN. It puts the buoy out of business?

Mr. MORSS. Yes, sir; they have also been compelled to take up two buoys that were put down last year.

Mr. STEVENS. Could not that be remedied by making the light of a higher power?

Mr. MORSS. That would be a help, but it would not do in the case of fog or storm.

Here is a condition that will exist during the coming winter. Upon the consolidation of the various coastwise steamers by Mr. C. W. Morse the Metropolitan line immediately ordered two fast turbine steamers for passenger service to go from Boston to New York in fourteen hours, and when the New York, New Haven and Hartford road discovered that they were to meet competition they ordered two similar ships, and at the end of the year we shall have four fast passenger steamers plying between New York and Boston, every night passing each other through this Sound.

Mr. GREENE. There are other passenger steamers?

Mr. MORSS. Yes, sir; the Philadelphia, Baltimore and Savannah boats all carry quite a number of passengers, but not so many as there would be between New York and Boston. Those boats are

frequently full. The present Metropolitan line between New York and Boston does not carry passengers. The Philadelphia boats do, the Baltimore boats do, the Savannah boats do, and Jacksonville boats do.

Mr. STEVENS. They all pass this point?

Mr. MORSS. Yes, sir; every one of them. The *Onondaga* is fast ashore and it seems probable that she may not get off. The sailing vessels, if they are embarrassed, can anchor, but the steamers must go through and take their chances.

Mr. STEVENS. The foreign steamers do not pass this point?

Mr. MORSS. No, sir; they go around the cape, outside the light.

Mr. RYAN. You spoke a few moments ago about the tonnage passing this point, have you any figures showing the number of vessels passing that point?

Mr. MORSS. I went to Mr. Chamberlin to see if I could get some statistics in regard to the tonnage, but I could not. I have the word of Mr. Palmer, the man who handles the Palmer line, that 272 vessels passed this point in 24 hours. I do not mean to say that is the average daily number, but at one time they amounted to 272.

Mr. RYAN. You would have no definite means of finding out the number of vessels and the tonnage that pass this point?

Mr. MORSS. I think not, because they come from so many ports. We could take the receipts from New York and Boston and the number of vessels passing there from Baltimore, Newport News, and Philadelphia. Then there are the barges. They take three or four barges at a time. We would have to go to every shipper of material along the coast and it would be impossible to do so. I asked Mr. Palmer if he thought it could be done and he said "no." Mr. Littlefield, who was here this morning, had a letter from Captain Crowley on this subject. He is the captain of the largest fleet on the Atlantic, comprising the *Thomas Lawson*, seven master, which carries about 8,000 tons; the *W. L. Douglass*, six master; the Winslow firm, in Portland, who have a great many vessels, they are all very much interested in this, because where they have so much capital invested the detention is a matter of serious importance.

Mr. STEVENS. What is the prevailing wind at the different seasons at this point?

Mr. MORSS. All kinds; everything. It is right out in the open. If there is a storm anywhere within 100 miles they get some portion of it there.

Mr. STEVENS. Is it possible to have or maintain a light-house for this purpose?

Mr. MORSS. I think not. I might say about the steamers between New York and Boston, that they are intended to be fast enough to make the passage in fourteen hours, leaving Boston at 5 o'clock and reaching New York the next morning at 7, and with two lines in competition they are going to strain every nerve to get there on time.

Mr. STEVENS. How deep is the water on the shoal?

Mr. MORSS. About four and a half fathoms; at one point it is 4 fathoms. When you have vessels drawing 28 feet of water you want more than 4 fathoms. When a vessel gets on that sandy shore, you do not get it off very soon.

Thereupon the subcommittee adjourned.

WASHINGTON, D. C., *January 23, 1907.*

The subcommittee met at 2 o'clock p. m., Hon. James R. Mann in the chair.

LIGHT-HOUSE BOARD.

STATEMENT OF CAPT. URIEL SEBREE, UNITED STATES NAVY.

The CHAIRMAN. Captain Sebree, will you tell us what you want in the First light-house district?

Captain SEBREE. There is a light-ship they are fighting for near Boston, in the Second light-house district.

The CHAIRMAN. How about the First light-house district? How about Otter Island, Muscle Ridge Channel, West Penobscot Bay, Maine? You have recommended an appropriation of \$18,000 to establish a light and fog signal station there.

Captain SEBREE. Yes, sir.

Mr. STEVENS. They did not bother us about that.

Captain SEBREE. I think if they did not bother you you should not press it, because they have already gotten a good many things up in Maine. In other words, I do not think it is as important as some other things.

The CHAIRMAN. So far as this report is concerned, you can talk as freely as you please, because, if we have this printed, we can treat it as confidential, in the main at least. How about the Second district? I believe you think the Hedge Fence shoal light vessel is needed, do you not?

Captain SEBREE. I had a Member of Congress urging that upon me the other day, and he said it would be a good thing to have it; but it is not so absolutely necessary now. I do not think it is at all urgent.

The CHAIRMAN. We were almost on the point of allowing that last year.

Captain SEBREE. I know you were, and it would be a good thing to have it, and if I could get it I would be very glad to have it.

The CHAIRMAN. Mr. Stevens, were you present at the hearing at which those gentlemen appeared before the committee the other day?

Mr. STEVENS. Yes, sir.

The CHAIRMAN. What sort of a showing did they make?

Mr. STEVENS. They claimed that there were a great many vessels passing through, and that if they could get another light vessel there it would be a good thing.

Mr. RYAN. The secretary of the Boston Chamber of Commerce claimed that that point and the straits of the Detroit River are the two points that carry the greatest amount of commerce in the country.

Mr. STEVENS. They claimed further that there will be two fast lines of steamers from Boston to New York passing by this point, and that they can not make fast time in a fog, on account of insufficient lights.

Captain SEBREE. In my opinion there are two more urgent than that, and one of them is \$130,000 for the Pacific coast.

The CHAIRMAN. Is there anything else in the Second district that is absolutely necessary?

Captain SEBREE. I do not think there is anything else in that district that is urgent. If you are only going to give one thing in the

Second district here that light-ship would, in my opinion, be the best thing to give.

Mr. RYAN. That is the most important thing in that particular district; but in the United States there are others more important.

Captain SEBREE. I would want two others before the Hedge Fence.

The CHAIRMAN. How about the ship channel at State Ledge, in Boston Harbor?

Mr. STEVENS. If the Boston Chamber of Commerce were down here and did not demand that, I do not think we ought to bother with it very much.

The CHAIRMAN. We will have to be prepared on it.

Colonel CASEY. There is a light-house to be built at Southwest Ledge, right off New London, which we have not the complete appropriation for yet.

The CHAIRMAN. You have also recommended, in the last two years, a light at Dog Bar breakwater, at the entrance to Gloucester Harbor—\$12,000.

Colonel CASEY. I think we can put a beacon up there which would answer all purposes. That would not necessitate any legislation. It comes out of the general fund.

Captain SEBREE. That light at Dog Bar breakwater has been recommended for a good while; but I do not think that either one of those are urgent.

The CHAIRMAN. Now take up the Third district. How about Lloyd Harbor, New York?

Captain SEBREE. The report says: "The Board has received evidence that the interests of commerce and navigation require the establishment of a light at the entrance of Huntington Harbor and Lloyd Harbor, when the present Lloyd Harbor light can be discontinued."

Mr. RYAN. That would require only a small amount of money.

Captain SEBREE. We ask for \$40,000. We will have to build a new building there. I think if you give anything for the Third district this year you had better give that.

The CHAIRMAN. Where is Lloyd Harbor?

Captain SEBREE. It is right close to Huntington Bay, and right close to Oyster Bay.

The CHAIRMAN. The present light is, of course, not merely for the benefit of local commerce?

Captain SEBREE. Yes; it is. It is not a light for going up Long Island Sound.

The CHAIRMAN. The proposition now is to change it to a location where it will serve every purpose of the Lloyd Harbor light, and also take care of the entrance of Huntington Harbor.

Mr. STEVENS. Is there much business there?

Captain SEBREE. Not in a certain sense; but there are a good many vessels going in there, especially in the summer time. Hundreds of yachts and steamers with excursionists go in there.

Mr. STEVENS. They have their rights, and we have to protect them.

Captain SEBREE. I think so, and I am in favor of that proposition.

The CHAIRMAN. How about this recommendation with reference to Passaic, N. J., to build a new light fog signal near the west end of the draw, near the Lehigh Valley Railroad bridge.

Captain SEBREE. We asked for \$15,000 for that purpose. I think we had better put the signal where it ought to be. There are a good many vessels going up through that railroad bridge and the channel is now changed so that it is a long distance off. They want it put to where the channel is.

Mr. STEVENS. It is principally a barge and towboat business.

The CHAIRMAN. The report says: "Since the light was built in 1850, the channel through Newark Bay has shifted so that it no longer passes near this light; hence a more efficient fog bell is necessary now than was required at the time the light-house was built." Is that right?

Captain SEBREE. Yes, sir; it no longer passes near this light.

Mr. RYAN. Is this for the benefit of general commerce, or is it used by one railroad company?

Captain SEBREE. It is not used only by one railroad company.

The CHAIRMAN. There is a large commerce at Newark, is there not?

Captain SEBREE. I am not familiar with that branch of the subject.

The CHAIRMAN. If your statement here is correct, I suppose the present light is of very little value?

Captain SEBREE. Very little. They want it mainly for a fog signal. If it is light and clear they do not need any light at all.

Mr. STEVENS. That is the reason I asked whether there would be much business done at night. Barges would not be towed much at night in that crooked river.

Captain SEBREE. I imagine that they are going pretty much all the time.

The CHAIRMAN. How about Greenville?

Captain SEBREE. I think that is all wrong. I do not believe I would give \$75,000 to build a light there, the Pennsylvania Railroad to the contrary notwithstanding. Of course, if it was there it would benefit them and benefit everybody else; but I do not think it is at all urgent.

The CHAIRMAN. You have a recommendation here about Hunts Point, East River, New York. In your report, page 46, you quote letters that you sent in four or five years ago. In that connection may I suggest to you gentlemen of the Board that your annual reports would have a great deal more weight if you would quit incorporating into them everything you have put into former reports about additional aids to navigation for years back, because there are so many of them that we do not pay any attention to them.

Captain SEBREE. I am very glad to hear you say that. I cut out about half of them this year of my own volition.

The CHAIRMAN. When you go to make up your report tell the chief clerk to cut out a lot of these old matters.

Captain SEBREE. I will be very glad to consult with the other members of the Board and, so far as I am concerned, will be glad to cut them out.

The CHAIRMAN. Your chief clerk has been there so long that he has got in the habit of doing it this way.

Captain SEBREE. Do not put the blame on my chief clerk, because he comes and asks me about them.

The CHAIRMAN. Let me ask you about this. You are a naval officer and we have had a lot of claims presented here with reference to damages caused by revenue cutters. We passed a bill here the other day containing a great many items for damages caused by naval vessels, and there are some bills pending in the House for damages caused by army transports, and one for damages caused by a light-house tender. Does the other side ever get a hearing? Does the Government ever collect damages caused by other vessels to its property?

Captain SEBREE. Yes; and that is just where it is so unfair. We are making them pay right along. We have two or three suits pending now, and I have collected in the last year damages, although not to any great amount. If a vessel runs into any Government vessel and it is decided, after investigation, that the other vessel was at fault, we make them pay the damages. Suppose you own a vessel and you run into a Government vessel. It is decided, after investigation by the Steamboat-Inspection Service, that you are at fault. We immediately ask you to pony up for the repairs of that vessel. If it is a company that owns it we say that we will take the vessel to you for repair or we will repair it and send the bill to you. If they say they will not pay we write a letter for the Secretary of Commerce and Labor to sign to the Attorney-General, and ask him to bring suit against them. Suit is brought and we collect it. That is where the matter is so unfair.

The CHAIRMAN. Is that also done in the Navy?

Captain SEBREE. Yes, sir; I think so. I have not had a case brought to my attention recently, but I am almost sure it is. It is absolutely a one-sided thing.

The CHAIRMAN. I wanted to find out, because if that is the case there ought to be some general law passed upon this subject. In one year we have appropriated for 40 or 50 collisions caused by the fault of naval vessels.

Captain SEBREE. Not in one year. There have not been 40 or 50 collisions in the last year. You will find that that will cover a great many years.

The CHAIRMAN. There were five or six that occurred between the date of reporting the bill and the date of calling it up in the House. There were a dozen that occurred between the date of the introduction of the bill and the report of it in the House. If these things occur in that way there ought to be a general law covering it.

Captain SEBREE. There ought to be a law allowing the other fellow to bring suit. As the law now stands he can not bring suit. If we smash into a man's vessel he has no remedy.

The CHAIRMAN. I understand you are well fixed at Ambrose Channel.

Captain SEBREE. I think we are all right. I do not think we need anything there.

The CHAIRMAN. Are you still insisting upon this light-house depot at Tompkinsville?

Captain SEBREE. Yes, sir; we are. That is, for a lamp shop, and prices are going up all the time.

The CHAIRMAN. I suppose you have the authority to build that?

Captain SEBREE. We want some money for it this year.

The CHAIRMAN. That you will have to get out of the Committee on Appropriations. Now, what have you to say about the Fourth

Light- House District? You have here an item for a tender for New York Bay and Harbor and Lake Champlain.

Captain SEBREE. That is for a little tender 50 or more feet long to run up Lake Champlain. It is to take the place of the *Nettle*, which is about played out. It has to be small to go through the canal, and it has to come out of there in the winter time before it freezes up. We have been asking for some time for authority to get a new boat. It is for the engineer, and I think it would be a good thing to give it.

The CHAIRMAN. That is a tender for Lake Champlain?

Captain SEBREE. Yes, sir.

The CHAIRMAN. That would be both an inspector's and an engineer's boat?

Captain SEBREE. Yes, sir; we do use it for both. It would come under the engineer for general work. I was up there last year and I went on the engineer's tender a part of the time.

The CHAIRMAN. Have you still got the *Nettle*, or has she been sunk?

Captain SEBREE. No; I saw her the other day.

The CHAIRMAN. Is she liable to sink at any time?

Captain SEBREE. No; we are not going to let her sink. I made a trip on her last summer.

The CHAIRMAN. Does she not work all right?

Captain SEBREE. Yes; but she is old, and we employ her in other places.

The CHAIRMAN. But if she is a vessel that can be used, what is the need of a new one?

Captain SEBREE. Because the work is increasing all the time, as it is all over the country.

The CHAIRMAN. One of the reasons you give is that the master's berth in the pilot house is shorter than the master. I suggest that possibly the wisest way to overcome that would be to get a new master; get a stunted man.

Captain SEBREE. She is used around the harbor. I went out on one of them, just like her, the other day in New York. I wanted to go up into the Harlem River.

The CHAIRMAN. Which do you need most, a tender for Lake Champlain in place of the *Nettle* or a tender for Porto Rico?

Captain SEBREE. A tender for Porto Rico, by all means.

The CHAIRMAN. You have no hesitation in saying that.

Captain SEBREE. I have no hesitation about it.

The CHAIRMAN. What do you do now at Porto Rico?

Captain SEBREE. I have got the old *Pansy* down there, and I said to Inspector Wood: "Don't you send her out whenever you think it is not proper to go; but you telegraph to the Board that you can't do things, and why you can't do them."

Mr. STEVENS. How much work have you down there?

Captain SEBREE. We have not got a great many lights. I think there are about 18 lights around the island.

The CHAIRMAN. The water there is very quiet most of the time.

Captain SEBREE. No; they say not. I have not been there, but I was talking to an officer the other day, and he said that right off San Juan it was pretty rough, and he was in a battle ship. It is not a very quiet place.

The CHAIRMAN. When we were down there, not very far away from that point, it was as still as a millpond.

Captain SEBREE. It depends a good deal upon the time of the year when you are there.

The CHAIRMAN. Of course there is a part of the time when the weather is bad; but with only 18 lights to take care of—

Captain SEBREE. There is no other way to get to them. There is nothing there to hire.

The CHAIRMAN. What does it cost to maintain and operate the *Pansy*?

Captain SEBREE. Roughly speaking, it is about \$2,000 a month.

The CHAIRMAN. What would it cost to maintain and operate a new tender?

Captain SEBREE. A new one, and a big one, that would go to Guantanamo, or anywhere else, would cost probably \$2,500 a month. I am not counting repairs when I say it costs \$2,000 a month for the *Pansy*. The cost per month for the maintenance of a tender would depend largely on the amount of coal, the size of the crew, and how often she run.

Mr. STEVENS. Do you operate anything at Guantanamo?

Captain SEBREE. No, sir; we have not got anything there. We send over from Key West, from the Seventh District, once or twice a year.

Mr. STEVENS. What have you there?

Captain SEBREE. Nothing except some lights and buoys.

The CHAIRMAN. What lights have you there?

Captain SEBREE. We have got one light on the point, and two range lights, and are putting up two others. We have got four or five buoys, and somebody has to go there to fix them. In point of fact, I can not send there now. I told the inspector not to go now, because I have nothing to give him to go in.

The CHAIRMAN. What do you mean by saying that somebody has to go there and fix them?

Captain SEBREE. The buoys will not stay without being picked up and cleaned and put in place. They break away. We ship supplies and oil for the lights down there from New York. We built one set of range lights in the last year, and we have just authorized two other lights. The engineer from Key West is going to send over there in his tender to do the work.

The CHAIRMAN. You have asked for \$150,000 for a new tender for Porto Rico. What amount would you require?

Captain SEBREE. Two hundred thousand dollars.

The CHAIRMAN. Which do you regard as the more important, a new tender for Porto Rico or a new tender for Hawaii, or a new tender for the Twelfth District?

Captain SEBREE. We have got one for the Twelfth District already appropriated for.

The CHAIRMAN. You have been asking for both an engineer's and an inspector's tender.

Captain SEBREE. We got the engineer's tender. The tender for Porto Rico is the most important, because we have a large tender on the Pacific which can help us out at Honolulu. We have sent a supply steamer for general duty on the Pacific coast, and she will spend a

part of her time at Honolulu. I would like to have one especially for Honolulu; but, if it comes down to the importance of it, I think the tender for Porto Rico is the more important.

The CHAIRMAN. When you get your new engineer's tender for the California district, will that take care of you fairly well?

Captain SEBREE. Yes; it will. I do not think an additional tender there would be as important as the other, as a matter of fact. That came up last year, and I think the committee would have given one or the other, and I then said they had better give us the engineer's tender. We will have two tenders in the Twelfth district, and I think we can get along with them.

The CHAIRMAN. Last year the committee inserted an item for an inspector's tender, and the Senate struck that out and inserted an item for the engineer's tender.

Captain SEBREE. Yes; and I think I am partially responsible for that.

The CHAIRMAN. I remember that; but I did not know how much you thought you needed an inspector's tender.

Captain SEBREE. We did need one; but they asked me if we could only get one which one we wanted, and I said that if we could only get one I would recommend they give us the engineer's tender. With two tenders in that district I think we can get along fairly well—when we get them.

The CHAIRMAN. How about the Fourth district?

Captain SEBREE. I do not think we have recommended very much for that district.

The CHAIRMAN. How is the situation now on the Delaware River and Bay? Are you fairly well taken care of there with what we provided last year?

Captain SEBREE. With what you provided last year, I think we are.

Mr. STEVENS. There were six or seven projects for that district and we only provided for four or five of them.

The CHAIRMAN. They cut down a lot of them, which they originally called for, and they have changed the location of some of them, in order to make a smaller number do.

Captain SEBREE. I think, in the general bill you passed last year, that you provided for a good many items.

The CHAIRMAN. I think we had better let that go for the present.

You ask for a relief light-vessel for the Fourth district. How about that?

Captain SEBREE. I would like mightily to have that. We have got three or four of them out there; but when one goes adrift I have to borrow from another district.

The CHAIRMAN. You have no relief light-vessel in that district?

Captain SEBREE. None at all.

Mr. STEVENS. How many light-vessels have you in that district?

Captain SEBREE. In that district, five.

Mr. STEVENS. Where would you station your relief vessel?

Captain SEBREE. We keep it at the depot, up the Delaware River, and keep it ready, so that if anything gets the matter we tow it out to take the place of the other. We had one, but it was so old that it was not worth repairing. I got authority to sell her and got about \$1,000 for her.

The CHAIRMAN. How many relief light-vessels have you got in the Third district, and where are they located?

Captain SEBREE. We have three.

The CHAIRMAN. You would have one at New York?

Captain SEBREE. We keep one at New York and we generally keep one up around New London.

The CHAIRMAN. That is not very far from New York.

Captain SEBREE. No; but that is what we have to do.

The CHAIRMAN. Have you ever had it happen that all of your relief light-vessels were needed at once, owing to a general storm?

Captain SEBREE. I don't think so. There has been no such occasion since I have been there in two years, and I do not remember of a case where we had that happen. I have known of occasions when I had to send one from Charleston, S. C., to help them out in Boston and Portland, Me.

The CHAIRMAN. Suppose we now take up the Fifth District. You made a recommendation last year, and repeated it this year, for a light at Great Point bar, at the entrance to Little Annemessex River, Md. You have a buoy there now?

Captain SEBREE. Yes; I am not so very familiar with the situation there, but I think that if they want anything there we could put up a beacon light.

Mr. STEVENS. There is not very much business there?

Captain SEBREE. There are a number of vessels passing there.

The CHAIRMAN. What do you say about that?

Captain SEBREE. I do not think that is very important.

The CHAIRMAN. There was last year a proposition to put additional aid to navigation by the establishment of range lights in Fort McHenry channel from Patapsco Bay up to Baltimore.

Captain SEBREE. I know there has been a great deal of correspondence about that matter.

The CHAIRMAN. This is what you said about it last year:

Fort McHenry channel is the only channel from Chesapeake Bay to Baltimore which is not adequately lighted. The Lazaretto Point light, until lately, was a guide to the harbor, but its recent obstruction by the erection of high buildings now practically destroys its value for this purpose. Vessels going to and from Baltimore have asked, because of the obstruction of the Lazaretto Point light, for the establishment of range lights as a guide for Fort McHenry channel. Plans have been carefully considered and the most feasible of them is that for the establishment of range lights with the front light near the intersection of the Brewerton and Fort McHenry channels. The front light would also serve as a turning point for vessels going into or out of the harbor, and the rear light would indicate the shoal near Rock Point, on the west side of the Patapsco River. The establishment of such a range would involve considerable expense, but it would be fully justified by the great advantage it would confer on the large quantity of traffic representing the commercial interests of this vicinity.

Captain SEBREE. I do not seem to find that in this year's report. I wonder if that slipped by me in getting the report out? What did we recommend for that last year?

The CHAIRMAN. You recommended to us the passage of a bill carrying \$125,000.

Captain SEBREE. That is what I thought. I think, if you will let that go over, that I can look it up. I do not know just how it stands now, and do not know just what our last report was. I know that it has not died out at all, and that they are still after it.

The CHAIRMAN. How about the establishment of two beacon lights at the mouth of the La Trappe River, Maryland? Last year you stated:

This river has been improved by the United States at a cost of about \$9,000. The project for improvement called for a channel 150 feet wide and 11 feet deep across the bar at the mouth of the river. It is proposed to mark this dredged cut by two lighted beacons. Three steamers and 81 sailing vessels and barges are reported as plying in the river.

You recommended the passage of a bill providing for two beacon lights at a cost not to exceed \$10,000.

Captain SEBREE. Yes; I think that when we went over that here we stated that if we could get the money we could do that without an act of Congress.

The CHAIRMAN. If we are to do it at all, we might as well do it in the bill as any other way.

Captain SEBREE. Then you had better put that in. There is one thing in this Fifth District that you can easily see is important. I have asked for it for a good many years. It has reference to this wharf down here in Washington. It is absolutely disgraceful and we can not do anything to it. We lay some planks along it but we can not fix it up properly. We have asked for \$30,000.

The CHAIRMAN. Where is that; in your report?

Captain SEBREE. It is on page 72. We want \$30,000 for it. That estimate was made some time ago. The piles are all rotted out and we can not put buoys on it. It will fall down if it is not attended to, and we can not spend any money on it very well without it is appropriated.

Mr. STEVENS. What do you use it for?

Captain SEBREE. It was previously used for buoys that belong in the Potomac River. Instead of taking them down to the mouth of the Potomac, we would take up the old buoys and leave them there. It is a Government wharf and it could be used for other vessels.

The CHAIRMAN. That is a matter that is under the jurisdiction of the committee on appropriations. As I understand it, it is something that is already there, and what you want to do is to remodel it. If you want to build an entirely new wharf and it is a new proposition, we would then have jurisdiction of it.

Colonel CASEY. It would practically amount to that.

Captain SEBREE. We own the land.

The CHAIRMAN. I think it would be proper in the other bill. You had better find out about that. You will probably be before the Committee on Appropriations on the sundry civil bill, within a few days.

Captain SEBREE. Then we will take the matter up with them, and if they say it is not under their jurisdiction I will bring it back to you.

The CHAIRMAN. How about a light vessel for Cape Henry? You have been recommending one there.

Captain SEBREE. There have been several wrecks in that vicinity in the last year, and the steamship companies have been pushing us very hard to establish a light there. I would like to have one if I could get it—either that or the Hedge Fence. As between the two, I would rather have the one for Cape Henry.

Mr. STEVENS. How many light-vessels have you on that coast?

Captain SEBREE. We have one at Cape Charles, which is 10 or 12 miles from there. There have been some wrecks there in the last year. No matter how many we had there, there would be wrecks, and we could not prevent it. At present we have a buoy out there with a very powerful light. It is a new acetylene gas buoy, and that helps some.

Mr. STEVENS. How far out do you put those buoys?

Captain SEBREE. We put them about 6 or 8 miles out east of Cape Henry; but in foggy weather they can not see the light and can not hear the fog whistle at Cape Henry so far out.

The CHAIRMAN. That is for vessels going south and coming from the south?

Captain SEBREE. Mainly for those coming from the north. This would be placed to mark the channel.

The CHAIRMAN. Can not the vessels coming from the north come around the light vessel east of Cape Charles?

Captain SEBREE. Yes; but the fact remains that there have been several wrecks there.

The CHAIRMAN. There is a good deal of commerce there carried by vessels going south. I remember going down to Virginia Beach and counting 15 or 20 vessels in sight there at one time.

Captain SEBREE. There are hundreds of these coasting vessels.

The CHAIRMAN. Some of them are 6-masters, as I remember?

Captain SEBREE. Yes; there have been quite a number of wrecks around there.

The CHAIRMAN. What use would it be to a vessel coming from the north to have two fog signals and two light-ships right in the same range?

Captain SEBREE. In foggy weather they do not go right close in there, because if he is bound there he is not going to head in in thick weather. He does not hear this whistle and he brings up away over here [indicating]. I may say frankly that I am strongly in favor of this; but to be perfectly frank about it, some of my brother members on the Board are not quite as strong about it as I am.

The CHAIRMAN. Whom do you mean?

Captain SEBREE. Admiral Reiter, for one. I have not talked with Colonel Casey about it to any very great extent, because he has only been there a short time. The last time I talked with Captain Ross about it he seemed to have changed his mind. I talked with him because some member of Congress asked me to tell him where there was a wreck in the last year caused by the want of an aid to navigation, and I did not have one right on the end of my tongue. He crowded me about it and I told him that I would find out; that I did not know right at that time. I can not keep all these things in my mind.

Captain Ross said: "Why didn't you tell him down at False Cape, where we ought to have that light-ship?"

The CHAIRMAN. You do not want a light-ship at False Cape?

Captain SEBREE. This is to the northward of False Cape; but it would protect against False Cape, and if authorized it might be decided to put it off False Cape.

The CHAIRMAN. I should think that a ship coming around from the north would be rather off his reckoning if it should run into False Cape in trying to come in by a light-ship at Cape Charles.

Captain SEBREE. She would be off her reckoning. False Cape is 25 miles south of Cape Hatteras; but if a vessel has been out four or five days without any sight, 25 miles is not very far for her to be off.

The CHAIRMAN. Is that all in the fifth district?

Captain SEBREE. Yes.

The CHAIRMAN. How about the sixth district?

Captain SEBREE. I do not think we ask for much there.

The CHAIRMAN. You are building a light-vessel and tender.

Captain SEBREE. We are building a light-vessel and tender.

Colonel CASEY. We have no tender in the sixth district now. We have got a little naphtha launch.

Captain SEBREE. We have got the old *Wisteria*.

The CHAIRMAN. What has become of the *Pharos*?

Captain SEBREE. She is a wooden vessel, and we have got her.

The CHAIRMAN. You have two naphtha launches.

Captain SEBREE. Yes; the *Wisteria* is still going.

Colonel CASEY. She is occupied in the south a good deal and we do not have anything to use around there.

The CHAIRMAN. You soon will have a new tender there. I do not think you can complain of Congress about that, because that tender was authorized three years ago.

Captain SEBREE. No, sir; we can not complain.

The CHAIRMAN. And you have not commenced work on her yet. It took you two years before you advertised for bids.

Captain SEBREE. I admit it was neglected in our office. I was there a part of the time and was responsible for part of it; but I was not there all the time.

The CHAIRMAN. How about the Seventh district?

Colonel CASEY. We had a lot of beacons knocked down by a storm, and we are building them up now.

The CHAIRMAN. We take care of that through the Committee on Appropriations.

Captain SEBREE. I want a tender for that district. The *Laurel* is one of two that we have. I started to sell her last year and was about to do it, but the inspector who was running her said he could make her go another year; but he has reported that he will have to quit, and that he will not take the responsibility of sending her out.

The CHAIRMAN. The *Laurel* is no good?

Captain SEBREE. She is no good and we have got to sell her.

The CHAIRMAN. You now have the *Laurel* and the *Mangrove* for buoy tenders?

Captain SEBREE. Yes.

The CHAIRMAN. And the *Arbutus* and *Ivy*?

Captain SEBREE. Yes; they belong to the Seventh and Eighth districts. We have got the *Mangrove* and I am now repairing her at a cost of \$30,000. She cost \$73,000 ten years ago. I tried to fix her up, and the lowest bid I got for it was \$73,000. I got one other bid at \$80,000. I sent to every ship builder in the country, and that was the best I could do. That was an estimate to give her new engines and boilers. I cut them out, so that the repairs are going to cost \$30,000, keeping the same old engines and the same old boilers.

The CHAIRMAN. You think you need a new tender there?

Captain SEBREE. I do think we need a new tender in the Seventh District. There has been a special letter written about that since this report was made.

The CHAIRMAN. Written to whom? ^

Captain SEBREE. Written to Congress. I prepared the letter for the Secretary of Commerce and Labor to sign. It goes then to the Secretary of the Treasury, and he sends it to the Speaker of the House.

The CHAIRMAN. It is one of the greatest mysteries to me that there is no administrative department in the Government which has the slightest conception of how to proceed to get legislation out of Congress. You might as well have whistled to the wind as to do what you have done.

Captain SEBREE. We have got to find that out by experience. I found it out by coming over here to see you about another tender for Mississippi River. If I had not come to you and asked you about it that letter would have been lying there yet.

The CHAIRMAN. Certainly.

Captain SEBREE. I do not know who the members of Congress from Florida are.

The CHAIRMAN. You do not need to go to them. The proper thing for you to do in all these cases is to call the attention of some member of the committee which has charge of the matter.

Captain SEBREE. I shall do that in the future, and do it in the proper way. I know the Secretary of Labor and Commerce pretty well, and I can go, as I did in this case, and ask his authority to come and speak to you about it.

The CHAIRMAN. The truth is that every day the Speaker of the House of Representatives receives from one to twenty communications of this kind from the different Departments of the Government. They are referred to certain committees, and nobody ever sees them. They are never printed in the Record. Nobody sees them except the fellow who sends them in. The committee does not stop to read these things unless their attention is called to them, because they have other work to do.

Captain SEBREE. I have been finding that out; but we have to go by the regulations, and it is not proper for me to come before you, unless I am sent, to talk about these matters. I can not come without the authority of the Department in which I am serving. I will state to you right now that if you will put in a provision for a light-house tender for the Seventh light-house district you will find a letter here stating the reasons.

The CHAIRMAN. The letter is probably before our committee and supposedly before us, as we are the committee that has it in charge; but we never heard of it.

Captain SEBREE. The clerk of the committee has it, I suppose.

The CHAIRMAN. I presume so; and I presume it is filed away where it belongs. I may state to you that you put so much stuff in your reports that you do not want that we do not pay much attention to what you say, because we don't know whether you mean it or not.

Captain SEBREE. I think this is a necessary provision, and if you will make a note of that I can write you a letter with reference to it.

The CHAIRMAN. We do not want anything more about that now. We will find out all about it now; but we never heard of it before.

Captain SEBREE. And make it \$200,000.

The CHAIRMAN. Which would you think was the more essential, this light-house tender or the Porto Rico tender, if you could only have one?

Captain SEBREE. I really think I will stick to the Porto Rico tender, if I can only have one. They do not seem to want to give anything for Porto Rico.

The CHAIRMAN. How about a light-house at Cape Romano, in the Seventh district—"Cape Romano, on the island forming that cape, about 33 miles southeast from Sanibel Island, Florida." You say in the report:

The Gulf coast of Florida between Sanibel Island and Key West, something over 100 miles, is without a single light. There is quite a large commerce carried on between Florida ports above Sanibel Island and Key West and Cuba, using a route along the west coast of Florida, and a light at Cape Romano would be of great benefit. The island forming the cape was reserved for light-house purposes by the Executive order dated January 9, 1878.

The estimated cost of that is \$35,000. You have increased it to \$45,000.

Captain SEBREE. I do not think that is an urgent thing.

The CHAIRMAN. How about the Eighth district?

Colonel CASEY. The Horn Island light was completely wiped out, and where it stood there is a channel six feet deep.

The CHAIRMAN. What need have you for a light there if you have a channel?

Colonel CASEY. We will have to build some kind of a beacon there on that point. It did not carry away the whole island.

The CHAIRMAN. How much of a light did you have there before?

Colonel CASEY. I think it was a third-order light.

The CHAIRMAN. What sort of foundations did it have?

Colonel CASEY. It did not have as good foundations as it should have had.

The CHAIRMAN. What became of the light-house keeper?

Colonel CASEY. He was drowned and his wife was drowned.

The CHAIRMAN. Did he leave any children?

Colonel CASEY. I think he had some children, but they were all drowned. There is a light-house on Sand Island, right off Mobile. Sand Island was completely carried away during that storm; but that light-house tower stood on this little mound of riprap that was placed around it and was not injured at all.

Mr. STEVENS. What are you going to do; fill it in?

Colonel CASEY. We are going to put more riprap around it and try to save it.

The CHAIRMAN. You have a light there 50 feet high?

Captain SEBREE. It is nearer 150 feet high; it is a very high one.

The CHAIRMAN. This report says that this light was finally discontinued.

Captain SEBREE. It says that the Sand Island range light was discontinued.

The CHAIRMAN. Where is the Sand Island light?

Captain SEBREE. We have not said anything about that. I left out a lot of these things in this report.

Colonel CASEY. That was in good condition; but when I was down there a few weeks ago I could not land on it because the surf was so high.

The CHAIRMAN. You say you need a light on Horn Island?

Captain SEBREE. No, sir; my recollection is that we recommend putting that light in another place. There has got to be some kind of a beacon on Horn Island.

The CHAIRMAN. What is the necessity for putting a light there?

Captain SEBREE. Instead of rebuilding the Horn Island light there is a recommendation to put the light over on the other side.

The CHAIRMAN. Have you got to have a new light there to take the place of the Horn Island light?

Captain SEBREE. There is a recommendation to build a light in place of the Horn Island light, but that is in the urgent deficiency bill. I think you had better let this go over until we can look it up.

The CHAIRMAN. How about Sabine Pass? What has been done there? You ask for \$40,000 for a light-house at Sabine Pass.

Captain SEBREE. I do not think that is so very urgent.

The CHAIRMAN. There was some legislation in Congress last session that will determine that.

Captain SEBREE. We have built a light at Sabine Bank, which is 12 miles south of there, and that is in operation.

The CHAIRMAN. You have a recommendation for a light-house depot near Fort San Jacinto, in Galveston Harbor.

Captain SEBREE. Yes; we would like to have something there.

The CHAIRMAN. You now change your request from \$18,000 to \$5,000. I suppose you can do that out of your general fund, and probably are doing it?

Captain SEBREE. We have not done it yet. Of course we could do that.

The CHAIRMAN. What do you want there?

Captain SEBREE. I want \$5,000.

The CHAIRMAN. For what?

Captain SEBREE. Simply to put a wharf in there. We want \$5,000 for a buoy wharf at San Jacinto, near Galveston.

The CHAIRMAN. You ask for a new tender down here. I suppose if you should get a new tender for the Seventh District that would do for both?

Captain SEBREE. That is a tender that they are urging for use in the sounds.

The CHAIRMAN. That is because the heavy tender can not go in there?

Captain SEBREE. Nothing but small things can go in there, and when they want to go in there now they have to hire a vessel.

Mr. STEVENS. There is not much for it to do?

Captain SEBREE. Yes; there are a good many lights there.

The CHAIRMAN. You say:

The extent of the district makes about 700 miles of direct steaming necessary for the tender to go from one end of it to the other.

Captain SEBREE. That would be from Mobile to Rio Grande, going right along the coast.

The CHAIRMAN. The light stations in these lakes are now inspected and supplied by hired vessels? Do you know what the cost is at present?

Captain SEBREE. No; I could not tell you that. They have to pay about \$25 a day for a boat when they go around on an inspection.

The CHAIRMAN. Do you need anything in the Ninth District, on Lake Michigan? The Lake Carriers, the other day, insisted that there should be a light-house in place of the light-ship at White Shoals.

Captain SEBREE. Yes, sir.

The CHAIRMAN. What would that cost?

Captain SEBREE. \$250,000. We just got in the estimate yesterday.

The CHAIRMAN. How much of that is for the foundation?

Colonel CASEY. About \$150,000 of it is for the foundation.

Mr. STEVENS. What is the difference in the service that you will get out of it?

Captain SEBREE. A light-ship has to be removed early in the season and it does not get out until pretty late the next season. They have a great deal of navigation after the light-ship is removed, and they have no light to go by.

The CHAIRMAN. They have a light vessel there at Grays Reef.

Captain SEBREE. Yes; but all of those things are away in the worst season of the year, and you can not put them back when navigation opens. You can not fix them so they will stay there.

The CHAIRMAN. As I understand it, their claim is that in the early part of the year and in the late portion of the year the only light they have is the one at Waugoshance, and that the others are all lights that are taken away?

Colonel CASEY. That is the pith of the matter.

The CHAIRMAN. Is there not now a buoy down near Manitou Island?

Captain SEBREE. Yes.

The CHAIRMAN. If we should provide for a light-house at White Shoals could the vessel at White Shoals be properly transferred to North Manitou Isle, or the shoal where the gas buoy is now?

Captain SEBREE. Yes.

The CHAIRMAN. That vessel would be a suitable vessel.

Captain SEBREE. Yes; but I have put in for \$50,000 for a light vessel. If that light-house was provided for now there is no chance that the light-house would be in operation for three or four years.

The CHAIRMAN. Very likely not; but the light vessel would still be good at the end of that time.

Captain SEBREE. If we keep her repaired, I guess she will.

The CHAIRMAN. It was a pretty trim looking vessel when I saw it.

Captain SEBREE. We are spending \$18,000 now on three of them. I think they have them at Sheboygan.

The CHAIRMAN. I would like to say to you that I had a very pleasant trip last summer on that inspector's tender. Some people with whom I am acquainted say that I am inclined to be a little bit critical at times; but of course, I don't think I am. I found everything in mighty good shape around there, so far as care could make it.

Captain SEBREE. I am glad to hear it. Orchard is a very good man.

The CHAIRMAN. I think the light-house there would make the best housewives almost turn green with envy, if they saw how they are kept.

Captain SEBREE. I would like to take you gentlemen to one I visited the other day at Cape Hatteras. That did not look so well.

The CHAIRMAN. \$250,000 is a considerable sum of money. Upon what is your estimate based?

Captain SEBREE. Major Judson sent in that estimate.

The CHAIRMAN. That is a good deal of a guess?

Captain SEBREE. I expect it is, without going out there and making borings. Perhaps that would be in 20 feet of water. I don't know just what the soundings are.

The CHAIRMAN. I think likely it is in 20 feet of water or pretty close to it.

Colonel CASEY. You may have a storm some day that will come along and destroy all that you have put down, so that you have to have a very large contingent fund.

Captain SEBREE. There was one built out in California, and my recollection is that it cost in the neighborhood of \$750,000.

The CHAIRMAN. I wonder what Waugoshance cost? That is built on rock and is absolutely under water?

Colonel CASEY. They probably had a good foundation there.

Captain SEBREE. We had a bill introduced asking for \$150,000 for that. We got a report on it yesterday and the colonel and I talked about the matter this morning.

The CHAIRMAN. What bill was introduced?

Captain SEBREE. There was a bill introduced by Mr. Burton, I think, and he put it at \$150,000.

The CHAIRMAN. How about the light you ask for at Pointe aux Barques, Manistique, Lake Michigan? That was authorized in 1893. Why didn't you get the money for it? You can get the money out of the Committee on Appropriations if you make an estimate for it, ask for it, and it is needed.

Captain SEBREE. I don't know just where that is on the lake.

The CHAIRMAN. I think Captain Orchard told me that was needed.

How much of a necessity is there for a light vessel at North Manitou Isle Shoals, in addition to what is there now?

Captain SEBREE. I never heard of that until the Lake Carriers were in the other day. Of course that buoy is moved away when the ice comes in.

The CHAIRMAN. That was not the argument that was made here.

Captain SEBREE. The argument is that they want a fog signal there to show where the turn is, and I thought that argument was good. In view of the great increase of traffic, I think that would be a good thing and a proper thing to do.

The CHAIRMAN. Of course those vessels navigate regardless of whether it is day or night.

Captain SEBREE. Yes; and they go full speed. I think the traffic there is increasing a great deal all the time. I rather thought that the Lake Carriers' Association were pretty moderate in coming in and asking for only four things. They had boiled it down from probably dozens of things.

The CHAIRMAN. While we are on this district we may as well take up another subject, because I see that you have made a lot of requests at different times for keepers' dwellings. What would you think of it if Congress should authorize the Light-House Board or the Secretary of Commerce and Labor to contract for a certain number of keepers' dwellings at a certain limit of cost? I introduced a bill the other day having that object in view. Suppose that we should, by legislation, authorize you to construct, say, thirty light-house keepers' dwellings and appurtenant structures, leaving it then to the discretion

of the Committee on Appropriations to appropriate such amounts as you insisted you needed, either for a particular place or generally, and thereby largely leaving it to your own discretion as to where you would build these light-house keepers' dwellings, within this limit of thirty. Waiving for a moment the question of cost, if that could be done, would it be in the interest of the service?

Captain SEBREE. I rather think it would be.

Colonel CASEY. I think it would be an excellent idea, but on the Pacific coast, for instance, we had an authorization for a light-house keeper's dwelling at \$5,500, and it would cost now \$7,500 because of advance of cost of materials.

The CHAIRMAN. Waiving the question of cost for the present, I want to get your idea as to the other proposition, whether if we give you the authorization to construct a certain number, you can tell better where the light-house keepers' dwellings are most needed and can do your work in a more effective manner than you can if you have to prefer a request to us as to a particular one.

Colonel CASEY. Yes; I think so.

Captain SEBREE. I think that is a good idea, waiving the question of cost.

The CHAIRMAN. That is another proposition.

Colonel CASEY. Give us a lump sum.

The CHAIRMAN. We would not give you a lump sum. You get no lump sum for anything out of me. As to the question of cost, I think that last year we did provide for dwellings at some place at a cost of a little over \$6,000.

Captain SEBREE. You authorized two dwellings in the eighth district for \$12,000.

The CHAIRMAN. Would \$6,000 be a sufficient amount?

Colonel CASEY. Not as a maximum.

The CHAIRMAN. What would be the maximum?

Colonel CASEY. We had an authorization for a dwelling on the Pacific coast for \$5,500; but the prices have gone up so since the earthquake that it can not be built for \$7,000.

The CHAIRMAN. I think it is advisable to wait until prices go down out there. We do not have to build a light keeper's dwelling at an excessive cost.

Colonel CASEY. That simply shows what may occur, and if we are limited we may be hampered a good deal.

The CHAIRMAN. You may be; but we have to hamper you on these things. We want to get a reasonable maximum amount. Of course there is no object in saying \$6,000 if the prices are such that you can not build an ordinary dwelling for \$6,000. On the other hand, we do not care to give you authority to build very fancy dwellings, which you very likely would not build yourself if you had control of it, but which perhaps the engineer might persuade you to build, through sympathy, or something else, for the light-house keeper at some point. We want to fix a reasonable maximum.

Captain SEBREE. I rather think that if you could build a certain kind of a house for \$5,500 you might build a smaller one for less, by cutting down the requirements. I am going right back now to the reasoning that I gave you on the light-house tenders; but that is a different proposition.

The CHAIRMAN. There is no reason why we should give them fancy dwellings; but we want to be able to build substantial buildings and to build them properly. There may be exceptional cases where you would want more money, but we will take care of the exceptional cases.

Colonel CASEY. I think that \$6,000 is a reasonable and conservative figure.

The CHAIRMAN. I do not know whether \$6,000 is enough, in view of the increase in cost.

Colonel CASEY. I think so. It may be more or less, according to circumstances.

Captain SEBREE. I think that a building owned by the Government, which is supposed to last through a good many keepers, ought to be a respectable and decent good looking building; in other words, it ought to be a kind of a model building for that part of the country.

The CHAIRMAN. That is just where we differ. We are not engaged in building model buildings for that part of the country. We do not want to build monumental buildings for a light-keeper's dwelling.

Colonel CASEY. No; we simply want them comfortable. We put these men in out-of-the-way places and give them very small salaries, and we ought to make them as comfortable as possible.

Mr. STEVENS. We all agree to that.

The CHAIRMAN. We want to provide them with a substantial dwelling, and we want to provide a sufficient amount.

Colonel CASEY. My opinion is that \$6,000 is a good conservative estimate.

The CHAIRMAN. The limit in this bill was fixed at \$6,000 where you own the site. Would not \$1,000 cover the cost of a site anywhere?

Colonel CASEY. That varies very much.

Captain SEBREE. Then when we get authority to build a new light-house this bill would not stop us from building the dwelling. At Cape Hinchbrook we are building a light-house and a keeper's dwelling. I think the bill authorizes a keeper's dwelling to be constructed. If we had a bill like this, would that apply to such a case, or, in other words, would that be one of the thirty? I should not think it would.

The CHAIRMAN. Of course this bill would not cut out any item in another bill. The authority to build the light-house at Cape Hinchbrook is authority to establish a light-house station, and they construe that to mean not only the building of the light-house tower but the appurtenant buildings.

Colonel CASEY. In other words, that does not rule us out in exceptional cases where there are special bills.

The CHAIRMAN. I think not.

Captain SEBREE. I think that is a good bill.

The CHAIRMAN. We have a great many of these requests, and there is no doubt that there are many cases in which they need new light keeper's dwellings. We can not tell, and I doubt very much whether you gentlemen can tell without a very careful examination, just what is the most needed, unless you have the responsibility put upon you, and then you will acquire the information.

Mr. STEVENS. Before you leave the ninth district, I want to say that Mr. Davidson, of Wisconsin, asked me concerning a proposition for some range lights.

Captain SEBREE. It does not need an act of Congress to provide for that.

The CHAIRMAN. They want to establish lights at not to exceed four different places on the Fox River and connecting channels. How about that?

Captain SEBREE. If you put in the bill a provision for lighting the Fox River and Lake Winnebago that would cover the matter.

Mr. STEVENS. That would be in the sundry civil bill.

The CHAIRMAN. It would be subject to a point of order in the sundry civil bill. That point of order may be raised. I might raise it myself.

Mr. Davidson writes:

Lake Winnebago and Lake Butte des Morts, situated near Oshkosh, are expansions of the Fox River. Lakes Poygan and Winneconne are expansions of the Wolf River. These lakes average from 6 to 12 miles in width and from 6 to 30 miles in length. Where these rivers extend into the lake the land is usually low and marshy, and in the summer season a rank growth of vegetation so obscures the channel entrance that it is difficult for boats to distinguish the mouth of the river from bayous which extend from these lakes back into the marsh or lowlands surrounding. There are over 400 boats operating on these waters during the season of navigation.

How would you describe that locality in the bill?

Captain SEBREE. That would come in under the general appropriation—under the lighting of rivers.

The CHAIRMAN. Suppose we should put in a provision as we did last year for the fourteenth district? Can we not say here, "Post lights on the Fox River and its connecting channels and lakes?"

Colonel CASEY. Would it not be more definite to say "on Green Bay and Lake Winnebago?"

The CHAIRMAN. We could say "Fox River, Lake Winnebago and connecting channels." But you have already got all the lights you want on Lake Winnebago.

Captain SEBREE. There are two little beacon lights there.

The CHAIRMAN. These are the channel entrances of the rivers into the lakes. We can describe them easily enough as "post lights on the Fox River, Lake Winnebago, and connecting channels and lakes."

Captain SEBREE. Yes, sir; I think that would cover it.

The CHAIRMAN. What would they cost?

Captain SEBREE. They would cost \$25 to \$50 apiece to erect them, and it would cost \$10 to \$15 each a month to run them. It would cost \$400 or \$500 to erect them and maintain them for a year.

The CHAIRMAN. Say \$500. Then when you make your estimate for the sundry civil appropriation you will have to include these rivers.

Captain SEBREE. If this goes in in that way it will give us \$500; but I don't know whether I can pay salaries out of that, unless it is put into the sundry civil bill, under "Lighting rivers."

The CHAIRMAN. How about the Tenth district? That is the district of Mr. Ryan, who is a member of this subcommittee.

Captain SEBREE. I do not believe there is much new wanted there. We gave them something last year. They did want some keepers' dwellings at Buffalo.

The CHAIRMAN. We gave them one last year. They want more keepers' dwellings?

Captain SEBREE. They have got a keeper's dwelling that is all out of proportion in that district. It is too big a dwelling and cost too much money.

The CHAIRMAN. What about the Eleventh district?

Captain SEBREE. The most important thing in that district with reference to Lake Superior is the light that is asked for at Split Rock, near Beaver Bay. The bill asks for \$100,000. Colonel Casey and I talked it over and we have put it in at \$75,000.

The CHAIRMAN. Do you think you could build a light there for \$75,000?

Captain SEBREE. Yes; we could get the site there and we can get a good foundation and we will not need a very high tower.

Mr. STEVENS. What about Knife Island?

Colonel CASEY. We condemned that.

Captain SEBREE. We turned that down because it is only 8 miles from Two Harbors, and we do not think it is important enough, as there are many other places that are much more important. The Lake Carriers' Association did not even mention that.

Mr. STEVENS. There is a bill before the committee which has been pressed upon us. I asked a question about that at the hearing.

Captain SEBREE. This is an important place.

The CHAIRMAN. What about the light on Gull Island?

Colonel CASEY. We have no report about that yet.

Captain SEBREE. I think that is a good thing; but we have not got our local report and do not know how much money to talk about.

The CHAIRMAN. You were impressed with the statement which the Lake Carriers' Association made about it?

Captain SEBREE. Yes, sir.

The CHAIRMAN. There is now a light at the south end of Michigan Island?

Captain SEBREE. Yes, sir.

The CHAIRMAN. Would the other light be abandoned if you put up the Gull Island light?

Captain SEBREE. No; I think not. You can not see one from the other. You can not see across the land.

The CHAIRMAN. Why don't you utilize some of these things that are not needed? There is a light at Milwaukee, on the north side, which there is no excuse for maintaining.

Captain SEBREE. We sometimes discontinue them, and then we get an order from higher authority and have to put them back again.

The CHAIRMAN. You have not had to do anything of that kind since I have been here. What else do the Lake Carriers' Association ask for?

Captain SEBREE. They ask for the Split Rock light and the Gull Island light and for some range lights in the harbors at Grand Island.

Mr. STEVENS. What would they cost?

Captain SEBREE. I think \$10,000 or \$15,000 would put them up. If we had enough money we could put them up without an act of Congress, and call them beacon lights.

Mr. STEVENS. What about Whitefish Bay, near Whitefish Point?

Captain SEBREE. They wanted a light-ship there with a fog-signal, and I told them to put in \$50,000. But in the last letter we got they did not ask for that. They asked for a big gas buoy there.

Mr. STEVENS. Then it is not of much importance.

Captain SEBREE. No; I do not think it is of anything like as much importance as these other two things.

The CHAIRMAN. How about the Thirteenth district? What is the most important thing you want on the Pacific coast?

Captain SEBREE. A light-ship for Swift Sure Bank, at the entrance to the Straits of Fuca.

The CHAIRMAN. Have you worked yourself up to the point where you can conscientiously tell us that you think that ought to be provided for?

Captain SEBREE. I think so. I think that if we can only get one thing for the whole Pacific coast that is the most important.

Mr. STEVENS. Suppose we should read to you your testimony, what would you say?

Captain SEBREE. If I said anything different from that I would say that I have changed my mind. I went out there and went onto that shoal, and I think you ought to give that.

The CHAIRMAN. Do you think that light vessel is necessary there, as the location of the turning point?

Captain SEBREE. Yes, sir.

The CHAIRMAN. That is what it would be for.

Captain SEBREE. It would be for them to head for.

The CHAIRMAN. What about Carquinez Strait?

Captain SEBREE. I stand by that. I recommended that a good many years ago, and still stick to it.

The CHAIRMAN. They have done without it all this time.

Captain SEBREE. Of course they have, and they have done without everything you have not given them.

The CHAIRMAN. How about the Red Rock light fog signal?

Captain SEBREE. I think we can get along without that.

The CHAIRMAN. What have you to say about the Cape Blanco light vessel?

Captain SEBREE. Let us get the other one first. It would be a good thing to have one there.

The CHAIRMAN. You think you can do without that one?

Captain SEBREE. We have done without it all these years. That will be quoted against me, too. I think a light-ship there would be a good thing; but I don't think it is as important as the other one.

The CHAIRMAN. There was a request last year for a light-ship off Point Judith, Rhode Island. You reported against that, and you have no reason to change your mind about that?

Captain SEBREE. I have not put it in, although they are urging it very strongly.

The CHAIRMAN. They wanted a light-house at Pillar Point, California, last year, and you reported against that. You have not seen any reason to change your mind about that?

Captain SEBREE. I still stick to that.

The CHAIRMAN. They asked for a light-house for signal on Bouton Point, New York, last year. We never had any report from you about that.

Captain SEBREE. I am in favor of that.

The CHAIRMAN. Last year they wanted to increase the cost of the fog signal at the fog-signal station at Battery Point, Puget Sound, Washington, from \$6,000 to \$14,000. My recollection is that we did not agree about that.

Captain SEBREE. We asked for \$8,000.

The CHAIRMAN. You ask for \$8,000 additional?

Captain SEBREE. \$8,000 in addition to the original \$6,000, making a total of \$14,000.

The CHAIRMAN. Do you think you need that?

Captain SEBREE. Yes, sir; I do.

The CHAIRMAN. You think that additional appropriation ought to be made, do you?

Captain SEBREE. Yes, sir; I do.

The CHAIRMAN. How about the light-house and fog signal at Cape Arago, Oregon?

Captain SEBREE. We ought to do something there.

The CHAIRMAN. You recommended that last year.

Captain SEBREE. They say it is in mighty bad shape there now.

The CHAIRMAN. You have a recommendation for a light-house and fog signal at the entrance to Bellingham Bay in the State of Washington. You ask for \$30,000.

Captain SEBREE. Is that in the bill?

The CHAIRMAN. No; that was there last year.

Captain SEBREE. We ask for \$30,000, and we want it. We stick by that.

The CHAIRMAN. What we want to know is which is the more desirable, that or the Cape Arago light?

Captain SEBREE. I should say to fix up Cape Arago.

The CHAIRMAN. Suppose we should say that we would give you Cape Arago and Bellingham Bay or the Swift Sure light-vessel, which would you prefer?

Captain SEBREE. The Swift Sure light-vessel. I am thoroughly convinced on that.

The CHAIRMAN. Do you still think you need a light at Cape Spencer, in Alaska?

Captain SEBREE. Yes; we want that, but I would like to have an opportunity to think that over and look it up a little bit, if you want to know whether I would rather have a light at Cape Spencer or some other place.

The CHAIRMAN. I was going to ask you which would be the more desirable, a light-house at Cape Spencer or at Resurrection Bay.

Captain SEBREE. Right off the bat I should say Cape Spencer, but I don't know yet. In fact, they are talking about a railroad that is being built out there at Resurrection Bay. I saw a man from there the other day, and he said they really have got one built back in the interior.

The CHAIRMAN. Is there anything pressing now in Alaska, except Cape Hitchbrook, which is provided for?

Captain SEBREE. I don't think there is.

The CHAIRMAN. Then your opinion is that so far as the State of Washington is concerned, you would rather have the Swiftsure light vessel?

Captain SEBREE. Yes.

The CHAIRMAN. And as far as Oregon is concerned, it would be Cape Arago? So far as California is concerned, was it not Carquinez Strait?

Captain SEBREE. No; was there not something else we asked for there? There is one thing there which has not been mentioned at all yet and which slipped by me. I think maybe that would be the one to give.

The CHAIRMAN. Before you go into that, tell us about the necessity for a relief light vessel on the Pacific coast. They have asked for one for California.

Captain SEBREE. That would not come in first. Swiftsure Bank would be No. 1, Lake Michigan No. 2, the relief light-ship for district 12, No. 3, and Hedge Fence 4th and last. If I can only get three light-ships, I think I would like to have the first three.

The CHAIRMAN. As to a light-ship in Lake Michigan at North Manitou Island Shoals—do you not think it would probably be sufficient if we should provide for a light-house at White Shoal, with a view eventually of using that light-ship at some other place?

Captain SEBREE. No, sir.

The CHAIRMAN. If we should authorize a light-ship this year, you would not have it ready for a year or so?

Captain SEBREE. No, I would not; but if you should authorize it I would put out the advertisement on the same plan I am now pursuing with regard to two others.

The CHAIRMAN. How long will it take the contractor to build these five light-ships that are already authorized?

Captain SEBREE. I do not know how long it will take him. His contract is to build them in one year from the date of signing the contract.

Mr. RYAN. For all five of them?

Captain SEBREE. Four of them were let at one time. I had to readvertise for one about a month later, so that four of them are to be completed in one year from about October 5, and one about a year from last November.

The CHAIRMAN. In the course of the work upon these light-ships, do they have all five of them on the stocks at the same time?

Captain SEBREE. They have five on the stocks at the same time.

The CHAIRMAN. Of course, if there is anything that is an exact duplicate, I suppose it would be easy for them to go right ahead and provide for all the ships at the same time?

Captain SEBREE. They go right ahead. The five that they built there were all finished within a month of each other, and they got one or two of them out ahead of time, I think. They would go on a trial trip and then come back and try another one. They were all launched at about the same time.

The CHAIRMAN. How soon do you think you will be able to have bids out on the new tenders?

Captain SEBREE. I think it will be six weeks. I have to give at least thirty days' notice. I have got the plans now at the navy-yard at Norfolk, at New York, Mare Island, and Puget Sound.

The CHAIRMAN. Are the navy-yards figuring on them?

Captain SEBREE. They are figuring on them.

Mr. RYAN. The light-house at White Shoals will be very difficult to erect, will it not?

Captain SEBREE. That is what we think. The water may be 20 feet deep.

The CHAIRMAN. How about Horn Island? There has been a strong request made for a light on the south side of the strait.

Captain SEBREE. We recently reported on a bill for that.

Captain CASEY. We reported favorably on that.

The CHAIRMAN. What have you to say about Hawaii? Do you think we ought to have a light on that point across the straits from Point Makapun?

Captain SEBREE. We have recommended a light over on that point.

The CHAIRMAN. You have recommended a light at Makaanalua, Island of Molokai?

Captain SEBREE. Yes; there is a bill here for that.

The CHAIRMAN. Is there any other aid you especially want, for the Light-House Service, which we have not discussed?

Captain SEBREE. Yes, sir.

The CHAIRMAN. What is it?

Captain SEBREE. You have not gone into the river districts. I want a light-house tender and scow for our Mississippi and Illinois rivers.

Mr. STEVENS. How far up can you use that on the Mississippi River?

Captain SEBREE. Up to St. Paul.

The CHAIRMAN. I understand you regard that as absolutely essential?

Captain SEBREE. You made me state that pretty strong; but I think it is important.

The CHAIRMAN. I say that because I drew that bill myself, and gave it to Mr. Graff, after discussing the matter with you.

Captain SEBREE. Yes; but you said nothing went up there but a few towboats; and so I got the inspector to work, and he has given me a list of the boats that run up the Mississippi River there.

The CHAIRMAN. I said there had been no increase in the traffic in the Mississippi River there since the year 1. The commerce is much less there now than it was years ago.

Mr. STEVENS. That is true of a certain class of business, but other classes of business have increased.

The CHAIRMAN. You have got to have a boat up there to take care of those buoys, whether the commerce is there or not. You have got the buoys there?

Captain SEBREE. No; we have not got them there, but we want to put them there.

Mr. STEVENS. You have got range lights there?

Captain SEBREE. We have got about 1,500 stake lights, and buoys are needed to mark these wing dams, on the Mississippi River, but we have not got the buoys yet.

Mr. STEVENS. You buoy most of those places?

Captain SEBREE. Not yet, but we wish to do so. They are all right at low water, because they stick up out of the water, but at high water they are hidden and you can not tell just where they are. The idea of the buoys is not to mark every wing dam, but to mark groups of them.

The CHAIRMAN. Those are on the lower Mississippi?

Colonel CASEY. No, sir; they extend as far up as St. Paul. I put in about 60 miles of it myself on the Mississippi River below St. Louis.

The CHAIRMAN. Is there anything else?

Captain SEBREE. I can not think of anything else right now.

The CHAIRMAN. Do you want any authorization for the buoys on these rivers, or will you be able to take care of that out of your general appropriation?

Captain SEBREE. I think we can take care of it out of our general appropriation, if they will give us what we want in the way of the tender, and the money under buoyage.

The committee thereupon (at 5.15 o'clock p. m.) adjourned.

JUNE 8, 1906.

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES.

SIR: This Department has the honor to acknowledge the receipt of a letter dated May 25, 1906, from your committee, rereferring a copy of H. R. bill 19178, "To direct the Secretary of War to convey to the Broadwater Club the Hog Island light station, old site," and asking for all the information this Department has upon the subject, together with the reasons for the recommendations made in its letter of May 15, 1906, to your committee on this matter.

In reply this Department begs to state, at the instance of the Light-House Board, that there are inclosed herewith copies of 27 letters upon which this Department based its recommendation for the passage of this bill. The land to be conveyed to the Broadwater Club is the old site of the present light station, the present site having been conveyed to the Light-House Board by Joseph L. Ferrall and wife in 1893, with the understanding that the old site was to have been conveyed to them in exchange, including the buildings and appurtenances.

This Department, therefore, begs to suggest that the following-named changes might with advantage be made in this bill:

That in the first line of the title the words "Commerce and Labor" be substituted for the word "War:"

That in the third line of the bill, on page three, the words "Commerce and Labor" be inserted in place of the words "the Treasury;"

And that, on the third page, in line seven, after the word "site," and before the word "described," there be inserted the words, "and the buildings and appurtenances thereunto belonging."

This Department recommends the passage of that bill, when thus amended.

Respectfully,

VICTOR H. METCALF, *Secretary.*

COMMITTEES ON RAILWAYS AND CANALS,
HOUSE OF REPRESENTATIVES, U. S.,
Washington, D. C., January 22, 1907.

HON. JAMES R. MANN,
House of Representatives.

DEAR MR. MANN: The Government has for a number of years been improving the Fox River in Wisconsin. That river is now navigable for a distance of about 150 miles. The Wolf River enters the Fox a few miles from the city of Oshkosh, and has been also improved for navigation a distance of about 50 miles, as one of the connecting channels of the Fox River.

Lake Winnebago and Lake Butte des Morts, situated near Oshkosh, are expansions of the Fox River. Lakes Poygan and Winnebconne are expansions of the Wolf River. These lakes average from 6 to 12 miles in width and from 6 to 30 miles in length. Where these rivers extend into the lake the land is usually low and marshy, and in the summer season a rank growth of vegetation so obscures the channel entrance that it is difficult for boats to distinguish the mouth of the river from bayous which extend from these lakes back into the marsh or low land surrounding. There are over 400 boats operating on these waters during the season of navigation. While many of them are pleasure boats and operated solely for pleasure, yet a large number do a freight and passenger business, carrying passengers for hire, etc. The channel entrance of the rivers into the lakes are marked by barrel bouys maintained by the engineering department in connection with the improvement of the river. These aids to navigation enables boats to find the channel entrance in the daytime, but can not be distinguished in the nighttime.

There is a very earnest request made by those who own and operate boats on these waters to have these entrances lighted during the season of navigation, and they ask for the necessary legislation which will enable the Government to establish posts lights at not exceeding four different places on the Fox River and its connecting channels. I understand these lights could be constructed and operated at an expense not exceeding \$100 per light per year. The expense, therefore, will not be great, and I am exceedingly desirous of providing at this session of Congress whatever authority is necessary to have these lights established.

Will you kindly advise me whether provision can be made for the establishment of these lights without the introduction and passage of a special bill for that purpose, or will a special act be necessary?

Thanking you for whatever information and assistance you can give me in the matter, I am

Yours, very respectfully,

J. H. DAVIDSON.

COMMITTEE ON MILITARY AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 23, 1907.

HON. JAMES R. MANN,

House of Representatives, Washington, D. C.

DEAR SIR: Referring to our conversation of yesterday relative to range lights for Munising, on the south shore of Lake Superior, for which I introduced a bill (H. R. 20452), which is now pending before your subcommittee, I wish to state that Munising is by far the best natural harbor of refuge on the entire south shore of Lake Superior, and would be of infinite advantage to the commerce that passes by it each year could a few improvements be made therein. The most important of these are the establishment of range lights.

Munising Harbor is formed by a deep indentation in the south shore of the lake, in the center of which lies Grand Island. This leaves an entrance to the harbor on each side of the island. That on the east side is somewhat dangerous when the wind is blowing toward the shore, because of the high, precipitous, rocky shore. That on the west side would be safe in almost all weathers if the lights asked for could be established. There are now range lights which direct vessels into this harbor by the westward entrance, but the difficulty is about making the turn. A sand bar extends well out into the harbor from the western extremity of Grand Island. The banks of the island and mainland at this point rise somewhat precipitously and are heavily timbered. At night this entrance is as dark as a pocket, and there is nothing to indicate where the turn should be made.

It is desired that range lights may be placed on the mainland to the west of the entrance to the harbor, which will indicate where the turn is to be made, so that the sand bar upon the island and that which extends out from the mainland may be avoided.

Only a short time ago one of the large lake freighters, the *Fayette Brown*, in attempting to make this entrance, ran upon this sandbar and sacrificed a considerable portion of her cargo, besides seriously damaging the vessel.

The danger and difficulty of making this entrance is so well known to vesselmen that they now generally run by Munising Harbor to Marquette, 40 miles distant, taking the chances of the storm rather than attempt the entrance.

A somewhat similar condition prevails as to the eastern entrance where range lights are desired to be substituted instead of the present light.

In regard to this matter the Light-House Board said in its report for June 30, 1905, on page 140:

358. Grand Island Harbor, Lake Superior, Michigan. The Grand Island Light no longer serves the purpose for which it was originally intended. Vessels coming down the easterly side of Grand Island to enter Munising Harbor or the harbor of refuge at the south end of Grand Island can not see the Grand Island Harbor light until close to it. Bad shoals exist on both sides. A wreck now lies partly exposed a short distance north of the narrowest part of the channel. Shipping men ask the establishment of range lights instead of the maintenance of the present light.

The present light and dwelling is difficult and expensive to maintain. Range lights would be of much greater service to navigation and would involve less expense for maintenance. It is estimated that ranges could be established upon

the mainland at an estimated cost of \$13,200. If this appropriation is now made it will save the large outlay necessary to renew the buildings of the present harbor light. The Board recommends that an immediate appropriation of this amount be made therefor.

It again recommended these lights in its report for 1906. I am informed by the board that owing to the increased cost of material, etc., that \$15,000 will not be any too much to do the work.

These lights are also asked for by the Lake Carriers' Association and were deemed most essential by that association in its late hearings before your committee. So I was informed by Mr. Goulder, and he showed me the paragraph in their memorial relating to Munising, or Grand Island, as it is sometimes called.

I may add that Munising itself is a rapidly growing town whose business is greatly increasing each year and that it is headquarters of one steamship company owning 16 large lake freighters.

Yours, truly,

H. O. YOUNG.

DEPARTMENT OF COMMERCE AND LABOR,
LIGHT-HOUSE BOARD,
Washington, January 30, 1907.

SIR: In accordance with your verbal request the following information in regard to the appropriation for Horn Island light station, Mississippi, is sent you.

Q. How does it stand?—A. No appropriation has been made; \$10,000 is required.

Q. Has contract been made?—A. No.

Q. Will money asked for be needed next fiscal year?—A. Yes. This is an important light station and should be reestablished. It is proposed to remove the present structure at Mobile Bay light station, Alabama, and reerect it on the Horn Island site, which method will save the expense of purchasing material for a new light-house. The Mobile Bay light station can be reestablished with a simple pile beacon.

Respectfully,

THOS. L. CASEY,
Lieutenant-Colonel, Corps of Engineers, U. S. Army,
Engineer Secretary.

CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, February 21, 1906.

CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

SIR: Referring to the committee's letter of February 7, 1906, inclosing for the consideration of this Department and for report

thereon a copy of H. R. bill No. 14183, providing "for the establishment of two beacon lights at the mouth of La Trappe River, Maryland, and for other purposes," I have the honor to state, at the instance of the Light-House Board, as follows:

This river has been improved by the United States at a cost of about \$9,000. The project for improvement calls for a channel 150 feet wide and 11 feet deep across the bar at the mouth of the river. It is proposed to mark this dredged cut by two lighted beacons. Three steamers and 81 sailing vessels and barges are reported as plying in the river. Its commerce is valued at \$303,426, and it is aggregated at 11,466 tons in 1903 and at 13,601 tons in 1904.

As the commerce of this river is increasing and as range lights would lessen the dangers to passing craft, this Department recommends the passage of the bill in question.

Respectfully,

V. H. METCALF, *Secretary.*

HEARINGS, 1906—H. R. 14183.

The CHAIRMAN. The next bill is H. R. 14183, a bill for the establishment of two beacon lights at the mouth of La Trappe River, Maryland, at a cost not to exceed \$10,000.

Captain SEBREE. Those beacon lights at the mouth of La Trappe River, Maryland; yes. If the Light-House Board should decide that they are necessary, they could be constructed out of the general appropriation without any action of Congress.

STATEMENT OF HON. T. A. SMITH.

TRAPPE RIVER, MARYLAND.

Mr. SMITH. Mr. Chairman, the bill about which I wish to speak is H. R. 14183, with reference to the establishment of two beacons at the mouth of Trappe River. I have furnished a typewritten statement to the committee. I do not know that I can say anything more except that it is a fertile section and that it is far from a railroad station. The river is the principal outlet for perishable products. On dark and stormy nights it is impossible to get in there.

Mr. MANN. What do they raise there mostly?

Mr. SMITH. Fruit, vegetables, and grain.

Mr. MANN. What stream does the Trappe River run into?

Mr. SMITH. It runs into a branch of the Choptank.

Mr. MANN. You recommend that lights be established so that steamers can go in there?

Mr. SMITH. Yes, sir; the bar goes out there. It dovetails and makes it very dangerous.

Mr. MANN. How much commerce is there there?

Mr. SMITH. Half a million dollars or more.

Mr. MANN. Have you any record of the number of vessels going in there?

Mr. SMITH. I do not think that I can give you that. A great many sailing vessels go in there and Baltimore boats ply there.

Mr. ADAMSON. What will it cost?

Mr. SMITH. The bill says \$10,000, or as much thereof as may be necessary.

The town of Trappe, Md., is located at the head of navigation on the Trappe River and in the midst of a fertile and populous agricultural district, and is dependent upon this river for transportation of its merchandise, coal, lime, fertilizers, etc., brought into this section, as well as for its agricultural products, canned goods, lumber, etc., shipped out.

The nearest railroad station is about 4 miles distant and the steamboat wharf on the Choptank River about the same distance, while the Trappe River runs practically to the town of Trappe. There are three large carriage houses, coal and lumber yard, two roller flour mills, sawmill, and a number of small mills within a few miles, all dependent upon this river for shipping facilities.

The value of products shipped by this river from Trappe in one year exceeds a half million dollars.

Because of the interlocking bars at the mouth of this river navigation, both for vessels and steamers, is difficult and dangerous on dark and stormy nights, so much so that vessels never and steamers seldom attempt it on such occasions, thereby causing great inconvenience to travelers, loss and delay to shippers, and often ruin to perishable goods. When steamers fail to come in on returning from Baltimore, passengers are carried up the Choptank River from 5 to 10 miles from their homes and freight landed from thirteen to thirty-six hours late. We have two steamers, one each night, to and from Baltimore, two sailing vessels, and an innumerable number of smaller craft in summer and fall, all overtaxed in freighting the agricultural products to market, and returning laden with merchandise, lime, fertilizers, etc.

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HEARING

BEFORE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES

ON THE BILLS

Senate Act 5133 and H. R. 24373,

TO LIMIT THE HOURS OF SERVICE
OF RAILROAD EMPLOYEES



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1907.

HEARINGS ON H. R. 24373, "A BILL TO PROMOTE THE SAFETY OF EMPLOYEES AND TRAVELERS UPON RAILROADS BY LIMITING THE HOURS OF SERVICE OF EMPLOYEES THEREON.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Monday, January 21, 1907.

The committee met this day at 10.30 o'clock a. m., Hon. William P. Hepburn in the chair.

The CHAIRMAN. The committee will be in order. This meeting was specially intended for the discussion of the arbitration proposal. There are a couple of gentlemen here from abroad—from outside the city—who want to be heard on the sixteen-hour bill, and if there is no one here from the city except Mr. Neill, perhaps it might be well to lay that aside for a little while and to hear these other gentlemen.

Mr. TOWNSEND. I have no objection, Mr. Chairman; unless it will interfere with Mr. Neill too much.

The CHAIRMAN. There was but one practical railroad man who spoke against the sixteen-hour bill.

Mr. W. W. BALDWIN. That was Mr. Judson.

The CHAIRMAN. Mr. Willard is one of the vice-presidents of the Burlington Railroad. He is a practical operator himself, is an engineer, and is capable of speaking as to the full operation of this sixteen-hour bill. We will hear Mr. Willard. Now, Mr. Willard.

STATEMENT OF MR. DANIEL WILLARD, VICE-PRESIDENT CHICAGO, BURLINGTON AND QUINCY RAILROAD.

Mr. WILLARD. Mr. Chairman and gentlemen, of course it seems to me personally that legislation of this kind is unnecessary, because the railroads under existing conditions are very heavily penalized when men are kept on duty for more than the prescribed hours for a day's work.

Mr. TOWNSEND. How is that?

Mr. WILLARD. In the way of overtime which they are required to pay after having been on duty ten hours.

Mr. TOWNSEND. By what means?

Mr. WILLARD. By agreements existing between the railroads and their own men.

Mr. ADAMSON. But that heavy extra pay contracted for is an inducement to the men to observe over ten hours?

Mr. WILLARD. No; I do not think you should put it that way. It is a payment to them for work performed in excess of what they consider a day's work.

Mr. ADAMSON. Does not the extra pay for overtime induce the men to consent to long hours?

Mr. WILLARD. It never occurred to me in that light before, but it is a matter of mutual arrangement between the railroads and the men. The companies are interested in getting the trains over the road and in avoiding that extra payment.

Mr. TOWNSEND. That would be paid to some other man, so that the company is not losing anything by it?

Mr. WILLARD. A hundred miles is only a hundred miles anyway, and if the train gets over 100 miles in the time prescribed no overtime is necessary to be paid. If not, the extra time has to be paid for, so that it is really a penalty on the company, and the company is anxious to cut that out anyway.

The CHAIRMAN. Is it usual overtime?

Mr. WILLARD. The basis on which the men are paid usually is ten hours' duty for 100 miles run, and it is understood that shall constitute a day's pay and any hours in excess of ten, or any miles in excess of 100, are paid for pro rata.

The CHAIRMAN. But not at an increased rate?

Mr. WILLARD. No, sir; the same proportionate rate. Our records fail to show that accidents have been materially affected by the number of hours on duty, especially on the Burlington road, and it does not seem to me or to us that there is much connection between the hours of work and the accidents.

I had a report made some months since, after this matter came up, of the accidents on the Burlington road in the last five years, and of 968 accidents reported it appeared that only in 12 of them were the men on duty more than sixteen hours, and it was not claimed by the men or the officers that the fact that these men had been on duty more than sixteen hours had any bearing on the case.

Mr. TOWNSEND. Do you ever make any record in your books of the exact causes of the accidents?

Mr. WILLARD. Certainly. Our records would be of no value unless they recorded the truth. Those are the instructions. I will say immediately that I am in favor of limiting the hours of labor. Understand, I am not trying to speak in defense of excessive hours of labor, but I say our records as kept fail to show that the number of accidents or the results of accidents have been seriously affected by the number of hours of labor. I cite this just for your information.

Mr. BURKE. Do you know how many suits grew out of the accidents you had for damages?

Mr. WILLARD. I suppose our records will show, but I could not answer that. Whenever it shows in cases of accident that the men have been overworked, law or no law, it simply clinches the case in such a shape that the companies are obliged to settle on whatever basis they can make. However, the railroads are committed to the principle of this bill in their agreements. I fancy there is not an agreement in effect to-day upon any large railroad that does not provide that when men have been on duty sixteen hours they shall be given eight hours' rest and shall not be required to go out again unless they have had rest, except in cases of emergency. In that respect the railroads are committed to the principles of this bill. In fact they actually discovered it, and took steps in the matter before any thought of legislation was had.

I shall not say anything against a bill of this character, but I would like to call your attention to some particular features in this bill

which it seems to me would work unnecessary hardship, and features which it seems to me ought to be modified in some respects, and without attempting to affect your point of view I shall speak only to that end.

The title of the bill says it is "to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon." I would call your attention particularly to lines 3, 4, 5, 6, 7, and 8, on page 2. I am referring to H. R. 24373, because I think that is the best bill so far presented. Those lines read as follows:

The term "employees," as used in this act, shall include all persons actually engaged in or connected with the movement of any train operation, and notwithstanding that the cars upon or in which they are employed may be held and operated by the carrier under lease or other contract.

Some of us think that that, applied literally, would cover porters and conductors of sleeping cars and express messengers and postal clerks. Whether it is the intent of the committee to apply it to those classes of employees I am not aware. They are not employees of the railroad, and the employees of the railroad are not concerned with those particular classes. But if it was applied to those employees it would impair the efficiency of the service. It is the practice now, I think, for the Pullman porters and conductors to go through from one coast to the other, from the Atlantic to the Pacific; and while probably they never have eight hours off duty, they do arrange their hours something as sailors do at sea; they take "watch and watch" about, and in that way get their rest.

It is certainly better and pleasanter for the passengers to have the same porter going through for a long distance than it would be to change porters at frequent intervals, and, no doubt, the feature that might appeal to the people who travel a good deal might suggest itself in that connection—here would be half a dozen porters to settle with instead of one. But, however that may be, the service would really be impaired by changing porters frequently in going long distances.

Mr. MANN. There is no such intention.

Mr. TOWNSEND. We discussed that in committee.

Mr. MANN. But whatever our intention may be, it seems it does cover that indirectly. We have a suggestion made now as to that.

Mr. WILLARD. Yes, it seems to cover express messengers and Pullman car porters and conductors. On the Wells-Fargo express train, say running from Jersey City to Chicago, taking twenty-four hours, it is the practice, I think, to have the express messengers run through. Such a train as that one that I refer to is on the Erie Road, with which I am familiar. It is called a "through train," and the work is not heavy, and it has always seemed best to run them through. Of course, it would not affect the Erie Railroad, but it would affect the service. However, I am not particularly interested in that. I simply call attention to it.

Mr. ESCH. That first section is the exact language of the first section of the arbitration act of 1898.

Mr. WILLARD. I am not opposed to that, but it seems to me if they were included it would be hardly necessary to do that, having in mind the traveling public and the train employees.

I will read the first three lines of section 2:

That it shall be unlawful for any common carrier, its officers, or agents subject to this act to require or permit any employees subject to this act to be or remain on duty for a longer period than sixteen consecutive hours, etc.

I want to suggest for your consideration, gentlemen, that the word "knowingly" be used before the word "permit" in line 11. I make that suggestion because it should be known, when the company requires a man to do something that he is in fit condition; but on a railroad men are frequently permitted to do things where really the officers have no positive control over them. A case in point would perhaps be the accident on the Rio Grande a few years ago, where the night operator went away without permission and his duties were performed by the day operator without permission, and an accident happened.

Mr. RICHARDSON. You keep a record, do you, of all the time that a man consumes when he comes in and goes out?

Mr. WILLARD. Yes.

Mr. RICHARDSON. What good would the word "knowingly" do, then.

Mr. WILLARD. The record is simply after the fact, and not before. The record simply records what has been done. We have no way on earth whereby we could absolutely prevent the day operator from performing the night operator's duty at a station away from headquarters.

Mr. ESCH. Does not every operator keep in touch with the train dispatcher? Does he not have his own initials?

Mr. WILLARD. Yes; but they use the other fellow's initials under those circumstances.

Mr. KENNEDY. The only way the dispatcher could tell would be if there was something peculiar about his touch.

Mr. WILLARD. I am something of an operator myself, and I know that it would be very hard to detect the difference. On a telephone it would be less difficult; but on a wire it is difficult to tell. It sometimes happens in the West that we have heavy sleet storms, and the wires go down; and our schedules are so arranged that certain regular trains will depart, and it may happen, even in the absence of schedule orders, providing the regular trains due have arrived, so that the road will not be tied up in a snowstorm. In those cases men might go out when they ought not to be permitted to go, and inasmuch as the men are not penalized at all for any infraction of this rule, it seems to me only fair that you should say, in connection with the words mentioned, something like this: "That it shall be unlawful for any common carrier, officers, or agents subject to this act to require or knowingly permit," etc. We certainly would be held responsible for whatever the employees may do, and it hardly seems that that would be quite fair.

Mr. BALDWIN. You will find in the record a number of protests from the train dispatchers themselves, calling attention to the fact that they would be fined \$1,000, and some of them say in that record that they would have to leave the service.

Mr. ESCH. That is the provision of the Senate bill, Mr. Baldwin, referring to the thousand-dollar penalty.

Mr. RICHARDSON. How do you draw the distinction and make a distinction between the two words used there in conjunction—"knowingly permit?" It looks to me as if there might be a confusion.

Mr. WILLARD. If an officer were in contact with the men at all times, we would not ask for the word "knowingly." It is simply in connection with these cases, where the company is helpless to prevent men from going on duty at a distance from headquarters, that we think some exception should be made.

Mr. RICHARDSON. I am construing the words together. Would you not apply the word "knowingly" there to the word "permit?"

Mr. WILLARD. Yes; to permit, not to require.

Mr. RICHARDSON. It would seem to me to be tautology if you permitted a thing and then applied the word "knowingly" to it. It seems there would be tautology.

Mr. WILLARD. I am trying to cover that particular point. Possibly you can assist me. If a case like this should happen somewhere out on the Burlington road, where one man was supposed to work in the daytime and another was supposed to work at night, and the day man was working in the place of the night man, it would be considered as constructively "permitted" under the law, and we would know nothing about it.

Mr. TOWNSEND. Could not that be covered by penalizing any employee who goes on duty to relieve a man in that way?

Mr. WILLARD. That might be done. Probably a very small penalty would be sufficient. But I understood that there was a very strong objection to that; and it seems to me if you do not penalize the men by a small fine, or in any way, then you ought not to blame the company for his acts in violation of the law and with the consent of his employers.

Mr. TOWNSEND. I am speaking of cases where a man is relieved without any orders of the railroad. It seems to me if we could penalize the men under those circumstances we would accomplish the thing you are looking after.

Mr. CUSHMAN. Right in that connection, let me ask Mr. Townsend: You think it might be well to place a small penalty on the man who did something, as has been suggested here, without direct orders so to do? Do you not also think it would be a good idea, then, where a man went right up in the face of a Federal statute, which said he should not work over sixteen hours, and went out to work in the face of that statute—don't you think a small penalty on the man who did that would be wholesome?

Mr. TOWNSEND. He would object to that for the simple reason that the man himself would be subject to such conditions that he could not resist, not voluntarily assumed by himself, but placed upon him by others who were over him.

Mr. CUSHMAN. In my opinion it would add materially to the strength of the bill and strengthen the hands of the men, because when a man was ordered to go out by anybody to work sixteen hours, he could well say, "You are working me to penalize myself, and I can not do an unlawful act." That is the way it seems to me.

Mr. MANN. Mr. Willard, I suppose your idea about that is that any man in your employ who proceeds in the line of his work without your ordering him is permitted by you to do it?

Mr. WILLARD. Yes.

Mr. MANN. That would be the legal position. If you do not stop him, and he is in the line of his employment, then it is not only by your permission, but he is by your direction doing it?

Mr. WILLARD. Yes. I am not trying to evade any responsibilities that ought to rest upon the company; but if I am permitted, I will say, in reply to Mr. Cushman, that I hardly think your suggestion would be desirable for this reason: Because it would always rest with the employee to decide whether there was a case under the rule of exceptions here that would permit him to go, and I hardly think that question ought to be debated before obeying an order. It seems to me the case you cite would be covered by penalizing the company. I have no desire to discuss what the penalty should be, because we expect to obey the law.

Mr. BURKE. I want to ask you a question along the line suggested by your reference to the night operator doing the work of the day operator, or the day operator working in place of the night operator. Suppose the night operator was taken suddenly ill at the time he was supposed to go on duty?

Mr. WILLARD. If no exception was made to cover a case of that kind, we would have to close the office that night.

Mr. BURKE. What effect would that have on the movement of trains?

Mr. MANN. What effect would that have, for example, on the block-signal system?

Mr. WILLARD. It might seriously delay the trains. I could not say it would result in anything more than serious delays. It is not possible in the western States to relieve operators immediately at all times. It frequently takes two or three days. You have to get men and transport them long distances.

Mr. BURKE. I would like to ask you one further question in that connection. What is the duty of a day operator in a case such as you cited, as to leaving his post of duty before he is relieved by the man who is to take his place? Suppose the night operator fails to appear from negligence—does not “show up,” to use that expression.

Mr. WILLARD. Under the existing conditions he would ask the train dispatcher for instructions. He might be instructed to remain on duty until 9 or 10 o'clock, until some particular train had passed. He might again be asked to remain all night. That would depend upon conditions.

Mr. ESCH. If he left he would send notice to the train dispatchers in the offices on each side of him to the effect that that office was closed, and that would result in the delay of trains?

Mr. WILLARD. Yes.

Mr. BURKE. Are there not points where the necessity of an operator is greater than at other points?

Mr. WILLARD. Oh, yes; of course. That is admitted.

The CHAIRMAN. Mr. Willard, the suggestion of Mr. Townsend a moment ago seemed to indicate that in his mind the employee would be under a disadvantage if he refused to go out after sixteen hours of labor, and that he would be constrained—I think that was the word he used—by his situation to go, notwithstanding the law forbade his being employed.

Mr. WILLARD. Yes.

The CHAIRMAN. Is there, in your judgment, any prudent operator of railways who, under these circumstances, would dare to discharge a man, having in view his union labor relations and the power of that organization?

Mr. WILLARD. Why, Mr. Chairman, I should say no. I have read with much interest the testimony that has been given before this committee, and I have read of such instances as you refer to, but I have been in the operating department of railroads for twenty-seven years, and I have run an engine, and I have run a train, and I have even been a member of a labor union for five or six years, and I have known that side of the case, but I have never known personally a single case where a thing of that kind happened. It is a positive rule of the Burlington company to-day that not only shall we not require a man to go out if he has been on duty sixteen hours, but he shall not be required to go out at all if he says he is not fit for duty, and the superintendents have positive instructions that in such cases they shall comply with the requests of the men.

The CHAIRMAN. But suppose that in the case I have suggested there was an invasion of the rights of the employee. He has the right, as well as its being his duty, not to go on the road after being on duty sixteen hours. Suppose there was an invasion of his rights. What would the union do?

Mr. WILLARD. Possibly I am not capable of answering that, but the union usually does this: When the men are improperly discharged or disciplined—the men at the head of the union are good judges of these matters, being practical men themselves—they always make a determined effort to get the man reinstated if he has been improperly dismissed.

Mr. MANN. Is that a somewhat uncommon occurrence?

Mr. WILLARD. Yes, because officers are human as well as men, and occasionally men are improperly discharged. The officer is, perhaps, unconsciously prejudiced against a man for some reason, and the man is dismissed, and the man appeals to his superior officers. The right of appeal is accorded them, up to the president, and sometimes the cases reach me, and, upon further hearing, if it appears that the man should not have been dismissed, he is reinstated.

The CHAIRMAN. I am trying to find out what protection he has through his union.

Mr. WILLARD. They get him back if he ought to go back.

Mr. TOWNSEND. Do they all belong to the union?

Mr. WILLARD. Not all, but practically so. The majority of all the train men and engine men belong to the union. I will say this on behalf of the railroad unions of train and engine men, that they have never undertaken on any of the railroads to insist upon the closed shop, and it is due to the fact that the railroads and the employees, through their unions, have invariably maintained good relations, and there has never been any pressure along that line on the part of either.

Mr. BURKE. I would like to ask you another question on the line of the former question, and that is, if this provision would not reach the train dispatcher as well as the operator?

Mr. WILLARD. Yes.

Mr. BURKE. Would not, then, the same situation arise with respect to the train dispatcher in one of the local offices, and the train dispatcher be compelled, by reason of his relief not appearing, to go on and perform the duties of the place or else cause all trains to stop on that division?

Mr. WILLARD. That is true. That might happen. Of course the train dispatcher usually works only eight hours a day, so that he

might do his work and the work of another without exceeding the sixteen-hour limit. But if a man under these conditions would not be permitted to operate until we could get another man there, that would result in serious delay.

Mr. BURKE. You have at division points what is called a train-master, have you not?

Mr. WILLARD. Yes.

Mr. BURKE. He is a necessary official in connection with the movement of trains, is he not?

Mr. WILLARD. He does not actually give orders for train movements. He holds an official position, it is true, and is practically on duty all the time. We provide telephones, so that in the night their advice can be had, if necessary. But I do not think it would apply to an officer above the rank of train dispatcher.

Mr. BURKE. Is the train master of a rank above that of the train dispatcher?

Mr. WILLARD. Yes, usually; but sometimes they are coordinate.

Mr. ESCH. You generally have some dispatcher and a competent operator in reserve, have you not?

Mr. WILLARD. We have three men in each dispatcher's office, usually known as working or trick dispatchers, who work eight hours, and usually we have some extra operators.

Mr. ESCH. So that these contingencies that Mr. Burke refers to would hardly arise in the train dispatcher's office?

Mr. WILLARD. They might, but the chances are they would not.

Mr. CUSHMAN. Now, as to whether the penalty should run to the company and its officers, as well as to the employees —

Mr. BURKE. What is your position, Mr. Willard?

Mr. WILLARD. I am vice-president of the Burlington Company and in charge of its operation.

Mr. CUSHMAN. Do you see any insuperable objection, from the standpoint of operation, why this bill should not contain at some place a provision placing a penalty of some kind on the man who violates the sixteen-hour provision as well as the officers and agents of the company?

Mr. WILLARD. I will answer that in this way: I would not penalize the man if the company asked him to go out and he went out because of such request, believing the order to be all right and that he is required to go. There may be conditions that make it necessary to require a man to go out again, even if he has just come in from a sixteen or eighteen hour trip—a wreck or something of that kind, which would make it important for him to go—and if in that case the matter was afterwards taken up and it was shown that the company was at fault, the company should be fined and the man not.

I do not think it would be wise to have the man judge in each case. We could not stop and have an investigation so that the man might determine himself whether it was an unusual case. The company with which I am connected would not ask a man to go unless he felt competent to go. If it did, the company ought to be fined and not the man. I do not desire that the man should be penalized in that case. My only desire is this, that when the man permits himself to go, when the company has no control of the case and does not know of it, and he permits himself to be employed, and is a party to an arrangement whereby the man is employed without the company's consent, then I

do not think the company should be penalized. If the company knowingly permits a man to do it, the company should be fined.

Mr. RYAN. But where both parties know of it, the responsibility should be on both?

Mr. WILLARD. I think so.

Mr. RICHARDSON. I understood you to say that the labor unions had not insisted upon your not employing anybody but union labor.

Mr. WILLARD. We have open shop.

Mr. RICHARDSON. Has your company ever made any agreement or requirement on the part of your employees that they should not belong to a labor union?

Mr. WILLARD. Not in recent years.

Mr. RICHARDSON. It did do it in years past?

Mr. WILLARD. Yes; that is, some time after the engineers' strike on the Burlington in 1888.

Mr. RICHARDSON. What operated upon you to make that change?

Mr. WILLARD. That was done before I went with the company. I have been with the company only three years. But for ten or fifteen years the company did not favor the Brotherhood of Locomotive Engineers, because in 1888, after a long-drawn-out contest, the engineers were defeated, and for a long time the company was opposed to that organization.

Mr. MANN. If you really told all that story you would not finish it until after the 4th of March.

Mr. WILLARD. No.

Mr. MANN. That is what is known as the great Burlington strike.

Mr. RICHARDSON. Without going into the Burlington strike, do you know of any other railroad corporations that put on that requirement now when they go to employ men?

Mr. WILLARD. I know personally only about the Burlington, and I can only say that we do not object to our men belonging to labor unions. We do object to men holding official positions belonging to the labor unions, but conductors and firemen and engineers and brakemen are allowed to belong to the unions. I have no objection. I was a member of a union myself for many years. I recognize that the labor union is here to stay. I am not opposed to it. I am the chief operating officer of the Burlington to-day, responsible for its operation, and we put nothing in the way of the unions. Our relations are pleasant.

The next thing I wish to speak about is that part of the bill which refers to exceptions—

Provided, That the provisions of this act shall not apply in any case where, by reason of unavoidable accident or casualty or act of God not known to the carrier or its agent in charge of such employee, or could not have been foreseen with the exercise of reasonable prudence at the time said employee left a terminal, he is prevented from reaching his terminal within the time specified in section two of this act: *Provided further*, That the provisions of this act shall not apply to the crews of wrecking or relief trains.

It seems to me that a somewhat broader list of exceptions should be made than is intended in that language; and I would like to call your attention to some reasons that I have for thinking so.

The length of division points of railroads, or rather the length of operating divisions, as a rule, has been adjusted to a distance varying from 100 to 150 or 175 miles, depending upon circumstances. Of course it is to the interest of the company to have division points as

far apart as possible and as few as possible, in order to cut out the actual delay that always happens at such places. The men themselves have always favored division points longer than 100 miles, because 100 miles is recognized as a day's work. After a train starts it makes very little difference to the men, in case the train is not delayed, if he runs 20 or 25 miles farther or not, so that the men have willingly been a party to the present arrangement of things, and the Burlington System, which is 9,000 miles long, has divisions of 30 or 40 miles, over which men go and come back in a day, and it has divisions ranging from 100 miles to 163 miles, but over which they would sometimes not get within the limits prescribed in this bill, and for reasons not contemplated in this list of exceptions.

Mr. ESCH. Name some of them.

Mr. WILLARD. I have a list here which I will refer to for convenience. I will take a particular case; for instance, take the La Crosse (Wis.) Division of the Burlington System, 156 miles long. I will preface what I am about to say with the statement that this rule, of course, will not apply to passenger trains or stock trains or fast freight trains. They will be cut out, and it will not apply particularly to some of the light freight trains on some of the light branches; but it will apply to trains carrying lumber and coal and stone and things of that kind which run at a slow speed and pay a low rate. We consider it on the Burlington good practice to so load an engine that when on a uniform low grade it will make a speed of 12 to 20 miles an hour. I will speak now of the grade between southern Illinois and St. Paul. We have a grade, or will have shortly a grade, on that line not exceeding 15 feet to the mile, and the company has spent upward of \$5,000,000 in the last four years to reduce the grade in order to handle coal cheaply from southern Illinois to St. Paul, because it is a good coal and could compete with West Virginia coal if it could be sold at a low price; but in order to sell it, it is necessary that the railroad should be able to move it for a rate under 3 mills per ton mile, and it has either to be moved under economical conditions or else it can not profitably be moved at all. The standard Burlington engine will haul, on a three-tenths grade, generally, 3,000 gross tons, including weight of cars.

Mr. ESCH. How many cars?

Mr. WILLARD. Probably not over fifty cars. The engine will pull its maximum train when the load is contained in the fewest cars. We think the train is getting along in an economical way if it is so loaded that it will run from 12 to 18 miles an hour after it is started and between stations.

Mr. MANN. You mean the running rate?

Mr. WILLARD. The actual running rate—when it is in motion. We find also on a single-track railroad a train loaded so that it will make between 15 and 18 miles an hour between stations, after deducting necessary delays from taking on coal and water and meeting trains, a uniform rate from start to finish of 10 miles an hour will be shown, so that fifteen hours would be consumed from start to finish for a 150-mile trip; and if we did that, and had only sixteen hours, say, certain things might happen which would make it necessary to relieve the men.

For instance, it not infrequently occurs that after the train is made up in the yard and the engine has started to go with it, it might be

discovered that a car has been put on the train by mistake through the error of some employee in making out a way bill—a car that ought not to have been put in—and it may take fifteen or twenty minutes to cut it out and get another in its place. Those things all happen somewhere on the road practically every day, but not always every day on the same division. The train finally starts and it may get in within its limit, or it may be that that particular train gets to some point to take water and finds that where it should take water the man to whom the care of the water tank is intrusted has, perhaps, let his pump get out of order or let it freeze up, and the tank is not full, and consequently time is lost there. It may be that the train is to meet a passenger train, expecting to meet it with very little delay, but that passenger train is itself delayed at its connection and the freight is delayed from fifteen to twenty minutes there; and consequently, because of little delays that could not be foreseen or prevented, that freight train will be prevented from getting in inside of the sixteen hours. One hour leeway is not sufficient.

Now, there is one of three things we can do to prevent that and get more leeway. The first thing would be to run the train faster. The passenger train would get in, and our fast freights would get in; but our records show that 45 per cent of all our trains carry fast freight and on the average carry less than 68 per cent of their capacity. That is the contribution that we make to the fast freight service, and in consequence of that the rates on the fast freights are higher, and the fast freights are thought to be profitable even under those conditions. But we could not afford to load the engine to that slight extent in slower freights, and it would not be to the interest of the public generally, because I assume that the public and you, gentlemen, who represent them, are all interested in cheap transportation, so far as it can be had without injury to any one; and certainly cheap transportation means carrying as large a load as is proper and consistent with good policy; so that I take it we could not reduce the weight of our trains sufficiently to overcome this objection and continue the low rate. It would not be a profitable thing to do.

The next thing we could do would be this: When the train had been on duty sixteen hours and they might be within 5 or 10 miles of the terminal, we could stop them on a sidetrack and let them rest. Of course that might be objectionable to the men as well as to the company. There might be no proper or comfortable facilities there for the men. We could perhaps arrange to have men stationed at various places to watch the engine while the men would be relieved, and still that would result in considerable delay to the freight and to the engine and cars.

MR. ESCH. If we made it eighteen or twenty hours there would be the same objection?

MR. WILLARD. Yes. I think I will show you that what I have to suggest in that connection is not excessive or unreasonable, but some few additional exceptions ought to be provided for in the bill. I do not think we could stop trains, as above suggested, as a regular practice, and we would have left the only remaining alternative of making the division shorter. That will have to be done in many cases anyway. If 10 miles an hour, including all stops and ordinary delays, is an economical speed for freight trains—and I think that is in accordance with the practice on most roads—then a division 120 miles long would

ordinarily be operated within not to exceed twelve hours, and would be about as long a division as a railroad could expect to operate under this law. That would leave four hours for such unusual contingencies as might happen. But under that policy we would have to change a number of our division points, and it would mean a large expense to the railroad company and also great hardship to the men.

I think I can illustrate that better by an actual fact that happened on the Erie Road than by any general statement. For a long time one of the division points had been at Galion, Ohio. The division on one side was too long, and on the other side it was too short. It was decided to move the division point to Marion, 20 miles away. The men, of course, objected seriously, because it meant that they should move away from Galion. They said there would be a great loss to them. We had our real estate man go to Galion and, without disclosing his purpose, find out the actual value of the property owned by railroad employees in that particular place, and he found that the property was worth about \$700,000. It was clear that if the men were moved away from there the property values would be largely destroyed, because it was largely a railroad village, and the houses would be of no value whatever, because there would be but few people to live in them, although the land might be valuable for agricultural purposes. Whenever the division headquarters are removed, there will be more or less loss in that direction, and it will bear more heavily upon the employees than upon the company.

It seems to me, therefore, that a little broader exception might be made and not interfere with what you gentlemen seek to accomplish in preventing the habitual delay of trains and keeping the men on duty too long hours. That might be accomplished if you could arrange that when men were delayed on a division by unusual causes, by things that did not frequently occur—delays because of failure of the fellow-servants or the failure of the engine—that could not be foreseen. I care not what language you use, but use simple language to cover some of the things I mentioned, so that when a delay occurs from some of these unforeseen causes the company may be permitted to let the men finish a trip, even though more than sixteen hours on duty, provided the men are willing and able. I should say a bill of that kind was all we would expect, and it would accomplish what you gentlemen desire, because it would prevent the practice which it is claimed obtains on some roads. Possibly the Burlington is the chief offender in that respect. I am not here to defend it if in the wrong. But under that bill it would prevent the policy or practice on any road of continually keeping the men on duty more than sixteen hours; and that, I understand, is the chief end desired.

Mr. RICHARDSON. Does not a hot box delay you now and then?

Mr. WILLARD. Yes.

Mr. RICHARDSON. Can you make any provision against that occurring?

Mr. WILLARD. We can not absolutely prevent a hot box occurring, but we can keep the occurrence of hot boxes inside the limit of what is good practice. If we were having a run of hot boxes on a division, it would probably be shown that there were more of them than good railroading could justify.

Mr. RICHARDSON. And it would create delay?

Mr. WILLARD. Yes; not necessarily serious delay, but perhaps so. But these delays that I have mentioned are perhaps more difficult to foresee than hot boxes. Take an engine that may have been running all right and not leaking, and making its steam and doing its work; the day comes when a flue gives out. Usually a failure of that kind would not seriously delay that train, but it might. But whether an engine fails or not depends largely upon the engineer—as much as upon the care that is given to the engine at the terminals. I have run an engine, and I could take any locomotive ever built and if I wanted to do so I could take it out from the terminal in perfect order and back into the terminal leaking, no matter how good an engine it was, and this would be the result simply of abuse and neglect. We hope to have men who will not do those things; but our men are not all perfect, although I think on the Burlington we have as intelligent a class of men as are to be found anywhere. Still, those things might and frequently do happen.

If they should happen occasionally, is it your intent that the road should be penalized in each particular case? If it is, I think the bill covers it. If not, then I think some change of language should be made so as to cover the case of a failure of an employee properly to write a waybill, or the action of an employee in not properly supplying a tank with water, from which a delay might occur and which would cause the company to be penalized.

Another thing: It is the practice on nearly all roads—certainly it is on the Burlington—to permit train men on slow freights, upon request, to stop and get their meals, and they take from twenty to thirty minutes. They can not get meals as quickly as the men on passenger trains can, because preparations have to be made. Their pay goes on all that time when the train is being delayed. On a train consuming something like sixteen hours the men would probably want to stop twice to eat, and that would make an hour.

Mr. ESCH. On the Burlington trains do they not usually take a lunch with them?

Mr. WILLARD. Not to-day. They did when I was running on an engine.

Mr. ADAMSON. In the cases you describe, where certain employees fail to do their duty and you say you should penalize their acts and failures and make them responsible, or even criminally responsible, what effect would the enforcement of such a provision have upon your securing better employees?

Mr. WILLARD. All men will make errors, and a man calling off a waybill might call off a wrong number, and I would not recommend penalizing him.

Mr. ADAMSON. Would not that deter them and make it more difficult for you to employ them?

Mr. WILLARD. No. If they make too many mistakes now they sacrifice their positions. If they were penalized they might not be able to pay it. I would not be in favor of that. Occasionally good men make mistakes. I simply wanted to provide for that. I did not mean to indicate that I would penalize the men when required to go out by a proper official, even if in violation of the law, unless such employee willfully and knowingly deceived the officer.

There are, however, provisions in the bill as it now reads which would work hardship on the companies and result in the delay of

traffic and result in hardship on the men; and it seems to me, if I am not mistaken altogether as to what you seek to do, that you can accomplish your ends without working hardship, and I take it there is no intention to work hardship, provided the ends sought are accomplished.

Mr. STEVENS. When you fix the rate of speed for a freight train as being most economical, do you take the question of safety into consideration?

Mr. WILLARD. Yes. We do that particularly with passenger trains. We limit the speed of our passenger trains, and do not permit them to exceed specified speeds on certain parts of the road. We have the safety and comfort of the passengers in mind; but it is not necessary to do that on freight trains, except on very steep hills, and we have few of them on the Burlington.

Mr. STEVENS. If the cost of operation were increased by the operation of this law, would it make them as safe, or more safe, or less safe.

Mr. WILLARD. I do not think it would make any difference.

Mr. MANN. Suppose you had a coal train out that had been delayed so that it would not reach its terminal in sixteen hours at the rate you usually had the train go. Would it be possible, with a little extra work in firing, to get up steam enough to make the train run faster?

Mr. WILLARD. No; I have assumed that the train makes the speed I have spoken of with the engine doing what it was intended to do.

Mr. MANN. You are assuming that the trains are heavy enough to exercise the full duty of the engine, so that you can not make any better speed?

Mr. WILLARD. Yes.

Mr. KENNEDY. To increase the speed you would have to lessen the load?

Mr. WILLARD. That is what we would have to do. We do that with fast freight trains because we can not do anything else. As I said, we get only 68 per cent of the capacity of the engine on fast freights.

Mr. MANN. Would it be possible to set out part of the cars and thereby reduce the weight of the train load, and thereby make better speed?

Mr. WILLARD. It is possible to do that, but it would be uneconomical and delay the business set off. Another train would have to pick it up.

Mr. MANN. You are assuming a case where it would be an exception and not the regular thing. It would be practicable to do that if the delay occurred early enough in the journey. Of course if the delay occurred late it would take longer to set out the cars than to go on?

Mr. WILLARD. Yes; but in any event it would make it necessary to start another train out light to pick that up. They could not take up those cars in the case of a full train, so that in order to take those they would have to start out light, prepared to pick those up.

Mr. MANN. We are assuming that this is an exceptional case; and if it would be an exceptional case, of course you would have to have an exceptional remedy.

Mr. WILLARD. We have heard a good deal about trains starting out with a full load and picking up other cars in addition. As a matter of fact, I have never seen that actually happen. A full load is a full load, and it is not anything else; and having a full load, you can not take on any more than the full load you already have.

Mr. STEVENS. Would those contingencies occur very often on any one division?

Mr. WILLARD. They would not; but on a road as long as the Burlington those things might occur somewhere on that railroad every day.

Mr. STEVENS. You spoke of taking coal from southern Illinois to St. Paul, and you said you must move it at a low rate or not at all?

Mr. WILLARD. Yes.

Mr. STEVENS. If you based your rate on a 3,000-ton load for that distance, you would take into consideration this matter of laying off a certain portion of the cars for a certain time, say a month?

Mr. WILLARD. No. If we found this section of the bill were put into effect, we would have to readjust that piece of road and make the divisions as near as possible 100 miles in length.

Mr. STEVENS. What would be the effect on the rate?

Mr. WILLARD. You can operate a railroad with 100-mile divisions economically. That would not be a serious matter, except you would have to have more terminals. But here are division points already built up. Men are already living there, and to establish new points you would have necessarily to abandon the old ones. You can not put division points everywhere. You must have places suitable for yards, and the men must live there, and in any event it destroys the value of property that has been created.

Mr. BURKE. In the case you spoke of you said you investigated that and found \$700,000 worth of property affected?

Mr. WILLARD. Yes. We moved the division point, and the trains are running to Marion now. Some of the men, I understand, have sold their property at Galion and moved, and others are living still at Galion. They have not sold their property, because they can not get a third of what it cost them.

Mr. ADAMSON. They are hoping, perhaps, for a restoration of the division?

Mr. WILLARD. Yes. It was an unfortunate thing, but it had to be done in that case for various reasons. But a similar result would happen anywhere in the moving of division points. Even if you would grant all the things I recommend, we would still have to move some of our divisions.

Mr. MANN. I wonder if there is anything in this bill that would remove the division point from La Crosse, Wis.?

Mr. WILLARD. That has not been contemplated, but under the operation of this bill that is one of the places that might have to be abandoned. The effect of the bill might be to require the removal of the division terminal from La Crosse.

Mr. ESCH. You have the biggest model engines?

Mr. WILLARD. Oh, not the biggest, but we have large modern engines.

Mr. ESCH. You have recently put on the new models. I have seen them hauling 80 cars.

Mr. WILLARD. You may have seen them hauling 80 empty cars.

Mr. ESCH. Do not the men complain that that is too large a train?

Mr. WILLARD. Yes; they complain, it is true, and when I was running an engine we used to complain of hauling 30 or 40 cars. We had hand brakes. Now the brakes are operated by power. It does not seem to me that the fact that some of the men complain is of itself vital. The question is whether it is a good thing for everybody to handle that class of business at the lowest possible rates. That is either a good thing or it is not. As I view it, it is inconsistent with cheap operation to run trains with less than a proper load.

Mr. TOWNSEND. The question here is whether or no it is on the line of safety to the public and employees rather than on the line of economy.

Hr. WILLARD. I do not think there is any question of safety involved here. Hauling a full train load does not affect the question of safety in any way different from hauling a partial train load.

Mr. ESCH. You can stand it just as well as your competitors?

Mr. WILLARD. Yes; but I am serious when I say it will work a hardship upon our employees as well as upon the company, and it will make transportation more expensive than it otherwise would be. Of course we can do it, and if the transportation is made more expensive, in the end the people will have to pay for it. Nobody pays for the transportation except the patrons.

Mr. MANN. I did not know you were opposed to the law limiting the hours of labor to sixteen, with reasonable provisions.

Mr. WILLARD. I am not. I only ask that you broaden your exceptions so as to include this language, or something like it: "In case of unexpected or unforeseen emergencies, or something that could not be foreseen by ordinary prudence." That is all I ask.

Mr. MANN. Let me ask you this question: There is a railroad that runs under the track of the Illinois Central Railroad as it goes into Chicago, in the subway. That subway is now full of water. The railroad officials who are operating that road know that it is full of water. It is something that has already occurred. They start an engine out from some place and it reaches that point. Of course it happens to be in Chicago, where they can get around by some other route, but it might happen somewhere else where they could not. That would not be an unforeseen contingency. It would not be an event that happened after the train started. It would be something that they knew. What effect would it have upon the operation of the road for that sort of a train to start out, thinking they might get that trouble out of the way before they got there, and not waiting awhile until it was removed?

Mr. WILLARD. It would simply mean delay. But suppose there is a wreck and the dispatcher gets a report saying, "I expect to have it clear in three or four hours," and then the dispatcher attempts to get his trains started so that they will approach there at that time. Sometimes there is a miscalculation, and I suppose under the bill we would be penalized in a case like that?

Mr. MANN. Take the situation now, where they have floods all over the Ohio Valley and over part of the Mississippi Valley. All the trains have not stopped running on those roads?

Mr. WILLARD. No.

Mr. MANN. And yet there are places on a large share of those roads where they can not get by. They take their chances on getting around.

What would the effect be if the law said, "If you take your chances and fail you have got to pay a penalty?"

Mr. WILLARD. I should say that a man or person or a corporation would fulfill its obligations if it did those things which an ordinarily prudent man would do.

Mr. MANN. If the law says a thing can not be done, it does not matter what an ordinarily prudent man can do; he is subject to the penalty.

Mr. WILLARD. I say that when we fail to do those things that an ordinarily prudent man ought to do you can fine us if you want to.

Mr. MANN. I have not seen any language yet with reference to this bill that would cover fully the case I mentioned, and yet that is a matter of everyday occurrence.

Mr. WILLARD. I confess I am unable to find out what "casualty," here mentioned, means.

Mr. MANN. The bill refers to the casualty which has happened or which could not be foreseen.

Mr. WILLARD. Yes.

Mr. MANN. Now, if a thing is there and you know it, you can foresee it. If you have to stop the train until you get the trouble out of the line——

Mr. WILLARD. It is a matter of frequent occurrence in the West that in the fall we have a very heavy amount of stock to carry from the ranges out in South Dakota and elsewhere, and the superintendent has word, say, from a rancher that he is getting his round-up in shape and will have his stock ready at a certain station; next Tuesday, for instance. He starts out with a train for that point, intending to get there at the time agreed to in order to load the stock. There is no switch engine there, and no houses there. It simply may be a side-track. The crew that went there must help in the loading. It may happen that the round-up may have been a little late in coming in, and the loading is delayed five or six hours. There is no other crew there to take that train to where it came from. It may have consumed more than sixteen hours. I would not consider a case of that kind as a casualty.

Mr. MANN. Could they not be put off duty in that time?

Mr. WILLARD. No; not in every case. As a matter of fact, all these trains that put up so much extra time in getting over the road are delayed, and the delays cause them to put in so much time on duty.

Mr. MANN. You call them on duty when you pay them?

Mr. WILLARD. Yes; frequently beginning an hour or a half hour before they leave the terminal station.

Mr. MANN. Take the case you mentioned as to cattle. Would it be practicable to put those men off duty during the loading?

Mr. WILLARD. No, sir; unless we take a relay crew there.

Mr. MANN. You could not take a relay crew there without paying them?

Mr. WILLARD. No; we would pay them while they were riding. They would be resting, no doubt. That is a thing that occurs every fall.

Mr. MANN. You have more or less confidence, I suppose, in the fairness of the Interstate Commerce Commission?

Mr. WILLARD. Yes, sir.

Mr. MANN. Would it help matters any if it were left to the Interstate Commerce Commission, which under the bill is directed to make the investigation and determine whether it should commence a prosecution or not?

Mr. WILLARD. I think it would. I would very much prefer to see it that way. But it seems to me it would be better if, when the bill is framed, it would indicate in a general way just what the intent is. It seems to me the intent now is not clearly shown in the language, and that really you seek to do a thing and you are doing it in an unnecessarily severe way. It seems to me it would be well if you could only see your way clear to provide in some language to cover these unforeseen contingencies which are not accidents and are not acts of God, but which yet occur somewhere every day.

Mr. BURKE. In your cattle-shipping localities there is frequently no town at all. Your shipping point may be some distance from a town?

Mr. WILLARD. Yes; I make no reference to the stock business of Iowa and Illinois and other well-settled States. I refer principally to the unsettled ranges.

Mr. KENNEDY. The crew has to be on duty all the time on that trip?

Mr. WILLARD. Yes. This is one of the things you have not provided for in the bill. We have to stop the train. We could not afford to pay the \$500 penalty. I do not care what the penalty is if the bill is one that we can live under, because we are not going to undergo the penalty. We are going to conform to the law. I have no doubt that we will accomplish more by means of this bill than we have been able to accomplish without it. In some ways it will spur us all up to a little extra effort.

Mr. MANN. If this bill became a law, would it be possible for the railroad companies, as a matter of self-protection, to make it a rule that a railroad employee who remained on duty sixteen hours, not being ordered on by the company, could be discharged as a result of the violation of the law?

Mr. WILLARD. We would do this, no doubt: If we found that an employee had willfully permitted himself to be employed when he had not had sufficient rest, we would dismiss him for disobeying orders and subjecting the company to a severe penalty. But he might not be found out in it except in a case where, as in that Rio Grande accident, it was called to the attention of everybody.

Mr. MANN. Suppose a train was stalled and you were without telegraphic communication, what would your order be as to that?

Mr. WILLARD. If a train had an engine that would not do its duty, if they had a train too big, which none could foresee, and if the train men had not discovered the fact, and for any reason the train did stall, I think that ought to be a reasonable exception.

Mr. MANN. Suppose it was not excepted, what would the railroad company be likely to do as a matter of orders in that case?

Mr. WILLARD. The dispatcher of course watches them on the wire. What would probably happen would be this: When he found that the train was being so detained that it could not reach its terminal on time, he would have to look far enough ahead to tell them to stop on a side track somewhere and tie up.

Mr. MANN. Have you not places where a dispatcher could reach the train?

Mr. WILLARD. Yes; but in some places he could not reach them. In such cases it would be for the men to decide what they would do.

The CHAIRMAN. After the word "Provided" in line 11, on page 3, strike out all of the language to the word "Provided" in line 18, and insert in lieu thereof the following:

Provided. That the provisions of this act shall not apply in any case of casualty or unavoidable accident or the act of God, nor where the delay was the result of a cause not known to the carrier or its agent in charge of such employee at the time said employee left a terminal, and which could not have been foreseen with the exercise of ordinary prudence.

Mr. WILLARD. I think I would have no objection to that. I would want to look at it, but I think that I would have no objection to that whatever, because I think it covers the points I am making.

Mr. CUSHMAN. Mr. Chairman, please read it once more.

The CHAIRMAN (reading):

Provided. That the provisions of this act shall not apply in any case of casualty or unavoidable accident or the act of God, nor where the delay was the result of a cause not known to the carrier or its agent in charge of such employee at the time said employee left the terminal, and which could not have been foreseen with the exercise of ordinary prudence.

Mr. WILLARD. I think, Mr. Chairman, that covers it. Of course, as I said before, I have never felt that the bill was necessary. But we have the bill, and I do not want to ask you gentlemen to put something in the bill that will render it nugatory. But if you are to have a bill at all, I think that would cover it as well as we could expect it to be covered. I think that is reasonable and fair.

Mr. CUSHMAN. There was some suggestion the other day about the use of the word "contingency."

Mr. WILLARD. I think the chairman read the word "emergency."

Mr. ESCH. He read the word "cause."

The CHAIRMAN. The word "cause." "The result of a cause not known to the carrier."

Mr. WILLARD. I think you should probably except those things which, in your opinion, the words "prudence and foresight" could not protect.

Mr. ADAMSON. If the language applies to an emergency, why not call it an emergency?

Mr. WILLARD. I do not want to suggest the language to the chairman.

Mr. MANN. What you suggest is that we except cases where the enforcement of the law would simply delay the transportation of freight and passengers, without any desire at all on your part to have a law permitting you to employ the men over sixteen hours?

Mr. WILLARD. No, sir; I have no desire to break down or hurt the law in the direction you seek to go; but there are so many things that happen that can not be prevented that some of them, I think, ought to be excepted.

The CHAIRMAN. You say "cause," Mr. Esch, or some one found objection to the word "emergency."

Mr. ESCH. To the word "contingency."

Mr. MANN. Would the railroad companies, except in case of wreck, send out anew men who had just come in after working sixteen hours?

Mr. WILLARD. I would say "No" to that. We would not do it now. It is against our orders to do that now.

Mr. MANN. I suppose that applied to the Baltimore and Ohio Railroad, yet I suppose they did not pay any attention to it in the case of the train that followed the Terra Cotta wreck.

Mr. WILLARD. May be this law will help in enforcing the rules that we already have in effect, and if it does in a reasonable way I am not opposed to it.

Mr. MANN. I do not think the men are responsible for their employment in excess of sixteen hours.

Mr. WILLARD. In my own experience I have had charge of a locomotive more than sixty hours at a stretch. I did not object to it.

Mr. ADAMSON. Did you sleep a good deal after that?

Mr. WILLARD. Yes; and I was not in fit condition to work. No man ought to be working right after he has been on duty more than thirty hours. All of us do under pressure, staying up sixteen or twenty or more hours in emergencies.

Mr. MANN. I have seen men in the House here who had been working sixty hours and still were in very good shape.

Mr. WILLARD. I would not want to have an engineer on the Burlington working sixty hours. I am opposed to that.

Mr. STEVENS. What do you think was meant by "relief trains" on page 3, line 20?

Mr. WILLARD. I do not know. I suppose that may be construed as trains going to a wreck. As an illustration, last spring the Burlington Railroad ran relief trains in connection with the San Francisco disaster. I would not know what would come under that.

Mr. STEVENS. There is a condition in North Dakota now of much suffering on account of an immense snow fall and lack of coal. The railroads running into that part of the country are seeking to get coal trains there as speedily as possible for the relief of those people.

Mr. WILLARD. Yes.

Mr. STEVENS. Now those coal trains are trains carrying coal that had been previously ordered in course of business, and yet those trains are really carrying relief to those people out there.

Mr. WILLARD. That is such an unusual thing that I would not try to decide what that would mean.

Mr. STEVENS. Might not that condition exist frequently, not merely as to snow, but as to other causes?

Mr. WILLARD. That has not happened since I have been with the Burlington—three years.

Mr. RYAN. Does it not mean relief trains to a wreck?

Mr. WILLARD. Yes; that would be the proper application.

Mr. ESCH. Or carrying relief to an afflicted town?

Mr. WILLARD. Yes; as in the case of washouts and things of that kind.

Mr. ESCH. Would it not cover relief in the case of coal trains being hurried to the relief of people in North Dakota?

Mr. WILLARD. I do not know.

Mr. KENNEDY. And a train, for instance, carrying fire engines from one city to another?

Mr. WILLARD. Yes; I suppose those would be what could be called relief trains.

Mr. Chairman, I will read just one paragraph of a letter addressed by Burlington employees to one of their Representatives in Congress. They say [reads]—

There are machinery and equipment failures, failures in running gear and other appliances, which the best of management and foresight can not provide against. There are failures of other appliances and materials, and there are failures on the part of our fellow-servants.

I want to show what our own men think.

Mr. BURKE. Was there any inducement on the part of the company to get the employees to write that letter?

Mr. WILLARD. No, sir. I told the committee of employees in our office that I was opposed to this bill, and I told them how I thought it would affect their interest; but they were not told to write that letter. I will file these letters with the committee, with your permission, Mr. Chairman.

The CHAIRMAN. If the committee were disposed to adopt this language, I suppose nobody would want to be heard further on this matter?

Mr. WILLARD. Mr. Chairman, if you will excuse me, I wish to say that I speak only for the Burlington Railroad. I do not assume to speak for anybody else.

Mr. ADAMSON. Mr. Chairman, the hour of adjournment has arrived.

Mr. TOWNSEND. Won't you read that again, Mr. Chairman?

The CHAIRMAN. I shall have to be absent from the committee for three or four days—

Mr. ADAMSON. I move the adoption of that amendment.

Mr. TOWNSEND. Please read it again, Mr. Chairman.

The CHAIRMAN. The amendment reads:

Provided, The provisions of this act shall not apply in any case of casualty or unavoidable accident or the act of God, nor where the delay was the result of a cause not known to the carrier or his agent in charge of such employee at the time said employee left a terminal and could not have been foreseen with the exercise of ordinary prudence.

Mr. Esch, have you any objection to that?

Mr. ESCH. It is about as we have it.

The CHAIRMAN. It has been moved that the bill be amended by striking out all from the colon in line 11 to the colon on line 18, and inserting on line 11 the amendment that has been read. All who are in favor of this amendment will say "aye;" those opposed, "no." The ayes seem to have it; the ayes have it, and the amendment is agreed to.

Mr. CUSHMAN. That leaves the second proviso in?

The CHAIRMAN. Yes.

Mr. RICHARDSON. What occasion have we for further hearings on this bill?

Mr. W. W. BALDWIN (assistant to the president Chicago, Burlington and Quincy Railroad). There is a suggestion that Mr. Mann, I think, wanted to incorporate in the bill, and that is the idea that suits shall be brought only upon order of the Interstate Commerce Commission after hearing.

The CHAIRMAN. Yes.

Mr. ESCH. I move that further consideration be deferred until Friday. You will be back here by Friday, Mr. Chairman, will you not?

The CHAIRMAN. Yes.

Mr. Willard filed the following letters:

OTTUMWA, IOWA, January 2, 1907.

Hon. WM. P. HEPBURN, *Washington, D. C.*

SIR: The employees in the train and engine service of the Ottumwa division of the Chicago, Burlington and Quincy Railroad held a meeting at Ottumwa January 2, 1907, for the purpose of discussing the La Follette sixteen-hour bill.

So many objectionable features to the proposed law were developed that it was deemed advisable to draft the following protest in the form of a resolution:

Whereas a bill has been introduced before Congress for the purpose of providing a law that will fix a limit on the hours that railroad employees may remain on duty in train or engine service and upon the hours that such employees shall take for rest after being relieved from duty.

Whereas knowing that this bill has objectionable features and will act as a hindrance instead of promoting the welfare of the employees interested: Be it therefore

Resolved, That we recommend to the House of Representatives and Congress that the bill be either amended or modified.

While legislation may be needful to prevent the long hours in service that possibly exists in some localities, we believe that a bill can be drafted which will contain a reasonable remedy for such evils; therefore we are opposed to the arbitrary and impracticable conditions imposed by the bill in question. We use the word impracticable advisedly, because we know from experience in actual service that unpreventable conditions arise rendering it a matter of impossibility for a railroad company, with the best efforts of ourselves, to move its trains at all times and comply with the one exception embodied in the proposed law. These conditions, that are beyond the control of ourselves and fellow-servants who man the trains and as well beyond the control of those in charge of the operation of trains, are numerous.

There are machinery and equipment failures, failures in running gear and other appliances, which the best of management and foresight can not provide against. There are failures of other appliances and materials, and there are failures on the part of our fellow-servants.

We object to being tied up at intermediate points between terminals or within a few miles of our homes. We would much prefer to exceed the limit in order to have our rest at home with our families, rather than to hunt a lodging or lay around some country farmhouse. Such a measure would deprive us of a place to procure proper rest and would cause us extra expense in living.

The law would permit of the railroads continuously keeping us away from our homes. For example, a train and engine crew could be held off for rest at a point within 15 or 20 miles of the home terminal. After completing our rest we could be called upon, and with perfect propriety, to complete the balance of the trip to the home terminal, turning right back with a train to the other end of the terminal, making the run within the limit. If the run could not be made within the limit and we are again tied up at an intermediate point we might not be able to reach the home terminal for several days.

We further object to that portion of the bill requiring that employees have ten hours' rest. We make this objection because it conflicts with our contracts with the railroad company. We are satisfied with the present practice for a rest of eight hours and would prefer no change. Men on trains in through service are compensated by the mile. Our agreements provide that any single crew may make a certain number of miles per month, with a rest of eight hours. A certain number of crews are required to perform this mileage, and a longer period of rest would naturally force the employment of a larger number of crews, which would reduce our mileage and necessarily our means of providing a living. We believe that the proposed bill will work a serious hardship on the men, as well as the railroad company, in other respects which are not mentioned and which will arise as time goes on: Therefore, be it

Resolved, That we, as employees of the railroad company and as citizens entitled to personal liberty, request you to lend your aid in procuring a modification or amendment to the proposed law to meet the objections we have specified.

M. E. CRANE,
Chief Conductor Order Railway Conductors.

JOHN STEWARD,
Chief Engineer Brotherhood Locomotive Engineers.

L. STEVENS,
Master Brotherhood Railway Trainmen.

C. B. CHARTER,
Master Brotherhood Locomotive Firemen.

PROTEST FROM CHICAGO, BURLINGTON AND QUINCY TRAIN MEN.

CRESTON, IOWA, *December 10, 1906.*

HON. WM. B. ALLISON, HON. J. P. DOLLIVER, HON. WM. P. HEPBURN, HON. JOHN F. LACEY, and HON. WALTER I. SMITH, *Washington, D. C.*

GENTLEMEN: At a meeting held December 9, 1906, of the men employed in the train and engine service on the Creston division of the Chicago, Burlington and Quincy Railroad, the following resolutions were adopted:

Whereas it has come to our notice that there is now pending before Congress and the House of Representatives a bill known as H. R. bill 18671, or better known among us as the sixteen-hour bill, which we think has some very objectionable features: Therefore

Be it resolved, That we recommend to the House of Representatives and Congress assembled that the arbitrary parts of said bill be modified. While we are in favor of a law of some kind that will, as a rule, do away with long hours on duty, we do believe and know that there are circumstances that arise in the handling of traffic by railroads that while, strictly speaking, are unavoidable, yet would not come under the exceptions provided for in the bill as it now reads. There are numerous things that might happen to a train that is only a few miles from its terminal, and perhaps on the main line, and the time limit might expire before relief could be gotten to them. Then again a crew might be but a few miles from their home terminal and the time expire, when in a few minutes perhaps they could reach their home terminal, where they could get their rest at home as they should. We do not believe, gentlemen, that you want to make a law that will compel a crew to lay up 5 or 10 or 15 miles from their home terminal just because the sixteen hours was up: then, when their rest was up, run them into their home terminal and double them right out of it again. Then again a crew may have a hard run from their home terminal to their away from home terminal, which, under the bill as proposed, would compel them to have eight or ten hours off duty, as the case might be. Now this crew stands for a good run home (after, say, five or six hours rest) which will take them to their home terminal in five or six hours, and we have a run like this on this division every day, which has been handled very satisfactorily to both the men and the railroad company with this five or six hours rest.

We think it would be a hardship on the railroad company, but a much greater hardship on the men, if the railroad company was compelled to keep a crew at this particular point (and there are numerous other points just like this in this great United States) to protect this train, just because this other crew could not get the whole of the required eight hours off duty: Therefore

Be it resolved, That we request you to do all in your power to so amend this bill in favor of the railroads of this country so that unavoidable and unforeseen accidents be excepted, and in favor of the men that when an hour or two will get them to their home terminal be excepted, and further, in favor of the men, that when a few hours rest at their away from home terminal will start them toward their home terminal that the men be allowed to use their own judgment as to whether they are able to go or not.

F. S. BARNES,
For conductors,
C. W. CLARK,
M. J. MILLER,
For engineers.
H. B. SNYDER,
For brakemen.
J. E. SHEPPARD,
For firemen,
Committee.

BROTHERHOOD OF LOCOMOTIVE ENGINEERS.

OTTUMWA, IOWA, *November 24, 1906.*

MR. J. F. LACEY,
Representative, Sixth District of Iowa, Washington, D. C.

DEAR SIR AND FRIEND: I wired you yesterday at Oskaloosa for a conference with a committee of railway employees, and your brother wired me that you were at Washington, D. C.

The subject we wished to see you about was one of great interest to the railway employees in the operating department—that is, the "sixteen-hour bill." Unless

there is some modification to that bill I believe it will work an undue hardship on the engine and train men.

I have been told there is a similar law or bill now in force in France that has caused the degeneration of railway employees in that country. You may know something about this law, and whether that is true or not. However, if there is an arbitrary law passed, I can see where it will in a number of cases be the cause of keeping men away from their homes, when thirty minutes or an hour would bring them to the terminal where their homes are, and they could then enjoy their rest with their families.

If you will let me know when you are home, we will call upon you and try and show you some of the objectionable features of such a law.

Hoping you will give this matter some consideration, I am,

Yours, respectfully,

J. W. DALTON, *General Chairman.*

**STATEMENT OF MR. W. L. PARKS, GENERAL SUPERINTENDENT
UNION PACIFIC RAILROAD.**

Mr. PARKS. Mr. Chairman and gentlemen, I think the amendment proposed fixes the bill satisfactorily to us. I represent the operating department of the Harriman lines. I believe that the Union Pacific Railroad is perhaps the only system that has got a record of the number of employees on duty sixteen hours. We have been following this matter very carefully for several years, and I have brought with me a compilation of every individual employee who was on the road over sixteen hours for the month of November, and I would like to submit that to the committee. All I have to say as to that is in writing.

The CHAIRMAN. Would it please you just as well to have it printed in our hearings?

Mr. PARKS. Yes, sir.

The CHAIRMAN. Very well. It can be filed.

Mr. Parks filed the following document:

The so-called Harriman lines for a number of years back have given the question of permitting crews to remain on duty only a reasonable length of time special consideration. Reports have been required from the accounting department showing the number of the train, its arrival and departure, tonnage handled, and the time consumed between terminals. Within the last year it was decided to supplement this with a special report required from division superintendents, showing each individual case where crews were on the road over sixteen hours. From such reports a monthly statement has been compiled showing the total number of men employed, by classes, total number of trips made or days employed, number of trips or days on duty ten hours or less and per cent of total, number of trips or days on duty over ten hours and not over twelve hours and per cent of total, number of trips or days on duty over twelve hours and not over sixteen hours and per cent of total, and number of trips or days on duty over sixteen hours and per cent of total.

A copy of this statement for the Union Pacific for the month of November, 1906, is submitted with supplementary reports explaining briefly each individual case and the cause of train having been on the road over the required time. This enables the operating officials, as well as the vice-president and general manager, to whom the report is furnished, to note at a glance the exact conditions existing in this respect and to take such action as might be deemed necessary should the report indicate an abnormal number of employees engaged on duty excessively, especially in train service.

The individual cases are followed up, first by the train masters and assistant superintendents, then by division superintendents, and later by the general superintendents, with a view of eliminating, so far as might be practicable, all excess hours.

We find, after a careful study of the question from its many view points, that it is absolutely impossible to entirely prevent cases of hours on duty over sixteen. In some instances it would be quite difficult to explain the failure to accomplish this.

The present terminals of the Union Pacific, for illustration, were fixed by natural conditions—incidentally by United States Government engineers—ample water supply being the most important requisite. For instance, to analyze the conditions of the main line between Omaha and Green River, Omaha was naturally the starting point of the Union Pacific on the Missouri River. Grand Island was selected as the

first terminal, a distance of 154 miles, located near the junction of the Wood River with the Platte River; ample water for this terminal was assured. The next terminal was fixed at North Platte, at the confluence of the North and South Platte rivers, 137 miles from Grand Island, where an ample water supply was again available. At any point west of there it would be practically impossible to secure this supply. At Sidney, 123 miles distant, on the Lodge Pole Creek, the supply is somewhat uncertain, but so far has proven sufficient for a small terminal without shops. Cheyenne is located at the base of the Rocky Mountains, on Crow Creek, which provides ample water for this, one of the largest terminals.

The next terminal was fixed 56 miles west, on the Laramie River, a short division, as will be noticed, unquestionably located to secure the water from a large spring in that vicinity, and which could be supplemented by the river, if necessary. The next terminal was fixed at Rawlins, by Rawlins Springs, located by Generals Dodge and Rawlins, which later proved inadequate, and a pipe line was constructed to the North Platte River at a cost of approximately \$300,000, which, perhaps, illustrates that it would have been better, even in this case, to have located near the North Platte River; but the valley there being narrow, this could not have been accomplished without the construction of a pipe line. The next terminal was fixed at Green River, on the Green River; and nowhere intermediate would there have been sufficient water to operate the road. We have, therefore, terminals fixed in this way by nature, and which can not be changed.

The business of the road has grown very rapidly, parts of it in Wyoming having a greater density of traffic than perhaps any other transcontinental line. The gross tons handled on the main line between Omaha and North Platte, 291 miles, during the month of November, 1906, was 184,101,483 tons. On the main line between North Platte and Green River, 533 miles, 357,552,368 tons. This required from 25 to 35 freight train crews on each freight district, with 16 passenger trains between Omaha and Valley, 14 between Valley and North Platte, 12 between North Platte and Julesburg, and 10 between Julesburg and Green River. It will, therefore, be readily observed that on the heavier districts, say between Rawlins and Green River, a distance of 134 miles, the railroad is a busy one, the density of traffic for November on this district being 329,212 tons 1 mile per mile of road.

In this territory it is quite impossible to get the crews over the district in all cases within the sixteen hours, simply because they are not able to make their meeting points for passenger trains and each other and accomplish the trip in a specified time. The local work, unloading way freight, switching cars, etc., is practically nil. The problem here is one solely of the "human equation" not being able to handle the trains advantageously in order that they may make the best possible runs to which they are entitled by reason of the commodities carried.

After the passenger trains, live stock is given the preference, then perishable commodities, then ordinary time freight, and then coarse commodities, such as coal, lumber, etc. It is the latter trains that usually encounter, from necessity under the requirements of the business world, the greater delays. This territory is at an elevation of from six to eight thousand feet, subject during at least six months of the year to the heavy winds and snow storms incident to the Rocky Mountain region, which are great factors in retarding at times the movement of trains. As above stated, it would be utterly impossible to shorten the terminals on account of the physical conditions of the road. The other alternative is to double track, which is being done as fast as labor and material can be furnished, and the work has been under way even before increased business seemed to have warranted it.

We have attempted to require the men to "tie up" at intermediate stations, if it would take them longer than sixteen hours to reach the terminal. This has always been met with violent opposition on the part of the men, who claim that it is a great hardship, in that the country is so sparsely settled it is impossible for them to secure accommodations, and that they are required to watch their locomotives and trains under these circumstances, which is a greater hardship than to continue to the end of the run where locomotives and trains can be turned over to others to care for and proper rest obtained.

It is a rule that when they reach the end of a terminal, no matter how quickly they may have gone over it, they shall take eight hours' rest before again going on duty. This insures that their physical condition is at the best when they start with their trains.

Notwithstanding the enormous single-track business handled by the Union Pacific, it would perhaps be pertinent to here call attention to the accidents in train service during the month under discussion. There was a total of 7 accidents, the most expensive of which to the company amounted to \$325 in property damage, and was caused by defective equipment. There were 3 minor yard collisions, amounting

to \$606, 3 derailments, caused by defective track, amounting to \$339. The total property damage was \$1,270 for all of the accidents that occurred during the month. On the basis of locomotive mileage for that month of 1,551,621 miles there were 4.51 accidents per million locomotive miles, with a property damage of \$820; no persons killed or injured; an increase in business of 10.45 per cent over the same month in 1905. There was not an accident caused by negligence of operation, nor due to crews on duty more than a reasonable length of time.

From the statement showing the continuous hours on duty, it will be observed that there were 161 cases of engineers, firemen, conductors, and brakemen on duty over sixteen hours, the four groups including practically the same cases. This would show that it is possible to operate a great many trains under not the best conditions and facilities with a small number of accidents. It will be noticed that quite a number of delays were caused by snow blockades and storms, which would follow through nearly all the cases on the Wyoming division, where the number seems to be abnormal as compared with other divisions, the weather during the month having been unusually severe. In a great many of the cases there were opportunities for relaxation from responsibility without any risk of accident whatever.

I use the Union Pacific Railroad in my illustrations for the reason that being directly connected with that line, I am naturally better acquainted with its statistics and physical condition. They will, however, apply to all the lines under the jurisdiction of Mr. Julius Kruttschnitt, who has made a hobby, or, perhaps I might better express it, a very intense study of the elimination of railroad accidents. He has always considered excessive hours on duty an important factor, and I am free to say that a sincere effort has been made during the past several years on all the affiliated lines under his direction to reduce to a minimum the cases where crews are on duty more than sixteen hours. Operating officials have full authority to spend whatever money may be necessary to accomplish this, as well as to provide mechanical safeguards. In a very short time the "Overland route," or main line, will be entirely equipped with automatic electric block signals from Omaha to San Francisco, the longest stretch of such signaling in the world. The material is on the ground, nearly all of the signals are up and a great many in operation; others coming in daily. Double tracks and other facilities are being added as fast as possible. It is certainly not a question of money, but one of time, controlled by ability to obtain material and men, and to use it without too seriously interfering with traffic.

If Kruttschnitt believed that a peremptory order to not permit another employee connected with train movement to remain on duty over sixteen hours was possible of accomplishment, I have no doubt but what the order would go out to-day; it would have gone out long ago. He is a practical as well as a theoretical operating official, and, therefore, knows how to go about it.

If the Government attempts to accomplish this other than in a rational, conservative, practical manner, carefully analyzing existing conditions, there will be the greatest congestion of traffic in this country heretofore known in the world's history. It may result in a panic, and will surely cause great suffering and perhaps loss of life, practically taking over the immediate supervision of some 218,000 miles of railroad, the operation of which is as delicately balanced as a watch; to put the finger in the works in the wrong place will have a serious effect.

If the Government is sincere in enforcing the law as it passed the Senate, they will drive from the service the really capable and conservative dispatchers. They will not put themselves at the mercy of the rank and file with such heavy penalties as the result of holding a crew on duty over the prescribed time. I will state further that in my opinion, based on thirty years of actual and active experience in the train service and the handling of trains, the Government can not enforce the law literally; it is a practical impossibility as the railroads are now constituted. If they do not, the responsibility for accidents occurring under circumstances in which the hours on duty are involved will fall on its agents. It will bring the Interstate Commerce Commission troubles and perplexities beyond anything they have yet experienced or conceived of. Detectives will not be necessary; the rank and file will furnish plenty of cases and ample evidence. It will be held to menace the official who may for cause discharge them. If the problem is solved somehow, as was done by the Safety Appliance and twenty-eight hour law, gradually working up to the desired end, it can be done. The railroad should be penalized and not the employees; unless the train and enginemmen are included. To do otherwise will set one class of employees against another, creating discord where harmonious relations are equally as important as in the Army.

UNION PACIFIC RAILROAD COMPANY.

Statement showing continuous hours on duty for the month of November, 1906.

NEBRASKA DIVISION.

Class.	Total number of men employed.	Total number of trips made or days employed.	Number of trips or days on duty 10 hours or less.	Per cent of total.	Number of trips or days on duty over 10 hours and not over 12 hours.	Per cent of total.	Number of trips or days on duty over 12 hours and not over 16 hours.	Per cent of total.	Number of trips or days on duty over 16 hours.	Per cent of total.
Dispatchers.....	13	360	360	100.0						
Operators.....	155	4,464	420	9.4	4,018	90.0	26	0.6		
Engineers.....	152	4,033	1,752	43.4	1,392	34.5	869	21.6	20	0.5
Firemen.....	152	4,033	1,752	43.4	1,392	34.5	869	21.6	20	.5
Conductors.....	103	2,332	925	39.7	635	27.2	752	32.2	20	.9
Brakemen.....	202	4,643	1,786	38.4	1,275	27.5	1,541	33.2	41	.9
Yardmen.....	194	5,662	2,524	44.6	2,674	47.2	464	8.2		
Towermen.....	14	420			420	100.0				

WYOMING DIVISION.

Dispatchers.....	18	540	390	72.3	150	27.7				
Operators.....	139	4,170	360	8.7	3,810	91.3				
Engineers.....	221	6,868	4,458	64.9	1,693	24.6	599	8.8	118	1.7
Firemen.....	221	6,868	4,458	64.9	1,693	24.6	599	8.8	118	1.7
Conductors.....	143	4,336	2,806	66.1	765	17.6	588	13.6	117	2.7
Brakemen.....	286	8,672	5,732	66.1	1,530	17.6	1,176	13.6	234	2.7
Yardmen.....	124	3,837	548	14.2	2,693	70.1	596	15.6		

KANSAS DIVISION.

Dispatchers.....	6	180	160	88.0	20	12.0				
Operators.....	144	4,075	450	11.0	3,501	85.0	124	4.0		
Engineers.....	90	1,646	1,259	76.0	181	10.0	200	11.0	6	3.0
Firemen.....	84	1,646	1,259	76.0	181	10.0	200	11.0	6	3.0
Conductors.....	61	1,571	1,187	76.0	180	11.0	198	12.0	6	1.0
Brakemen.....	115	2,988	2,147	72.0	384	13.0	445	14.0	12	1.0
Yardmen.....	85	1,980			1,060	53.0	920	47.0		

COLORADO DIVISION.

Dispatchers.....	11	316	299	95.0	17	5.0				
Operators.....	102	2,580	180	7.0	1,987	77.0	413	16.0		
Engineers.....	93	2,204	1,598	73.0	346	15.2	257	11.7	3	0.1
Firemen.....	118	2,204	1,598	73.0	346	15.2	257	11.7	3	.1
Conductors.....	65	1,651	1,176	71.5	216	13.3	256	15.0	3	.2
Brakemen.....	130	3,300	2,350	71.3	432	13.0	512	15.5	6	.2
Yardmen.....	63	1,247	823	66.0	400	32.0	24	2.0		
Towermen.....	2	60			60	100.0				

TELEGRAPH DEPARTMENT.

Operators.....	51	1,324	1,027	77.6	218	16.4	70	5.3	9	0.7
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GRAND TOTAL.

Dispatchers.....	48	1,396	1,209	86.6	187	13.4				
Operators.....	591	16,613	2,437	14.7	13,534	81.4	633	3.8	9	0.1
Engineers.....	556	14,751	9,067	61.5	3,612	24.6	1,925	13.5	147	.4
Firemen.....	556	14,751	9,067	61.5	3,612	24.6	1,925	13.5	147	.4
Conductors.....	375	9,890	6,154	62.2	1,796	18.2	1,794	18.1	146	1.5
Brakemen.....	733	19,023	12,015	61.3	3,621	18.5	3,674	18.9	293	1.3
Yardmen.....	466	12,603	3,895	30.6	6,827	53.7	2,004	15.7		
Towermen.....	16	480			480	100.0				

Maximum number of hours of employees on duty, November, 1906.

Trainmen: 29 hours 18 minutes. Meeting trains. Wyoming division.

Enginemen: 29 hours 18 minutes. Meeting trains. Wyoming division.

Operators: 18 hours. Omaha headquarters. Bad weather and slow work. Nebraska division.

W. T. PARN,

General Superintendent.

OMAHA, NEBR., December 18, 1906.

Cause of employees being on duty over sixteen hours, November, 1906.

NEBRASKA DIVISION.

Date.	Train or station.	On duty.	Cause.
		H. m.	
Nov. 7	No. 51.....	16 35	Held out Grand Island yard 2 hours.
7	No. 55, 2d.....	18 03	Held out Grand Island yard 3 hours and 30 minutes.
7	No. 55, 4th.....	17 20	Held out Grand Island yard 2 hours and 40 minutes.
7	Express 1825.....	17 20	Cleaning fire and meeting trains.
10	No. 55, 2d.....	16 50	Held out Grand Island 3 hours.
8	Express 1731.....	18 24	Pulled out drawbar and chaining up.
8	Express 1714.....	16 25	Do.
13	No. 57.....	18 30	Engine leaking.
14	No. 55, 2d.....	17 25	Local work and meeting trains.
2	Express 1863.....	17 00	Delayed account storm.
3	Express 1727.....	16 05	Meeting trains.
3	Express 33.....	16 35	Do.
8	Express 1725.....	17 25	Local work.
11	Express 1864.....	17 20	Engine failure.
13	Express 1862.....	16 40	Delayed Bradys Island 2 hours.
14	Express 1730.....	17 25	Local work.
17	Express 1723.....	17 00	Bad weather.
19	Express 35.....	18 05	Meeting trains.
21	Express 1860.....	17 40	Engine failure.
27	Express 1863.....	17 10	Local work and meeting trains.

WYOMING DIVISION.

Nov. 1	Express 1979.....	18 50	Cleaning fire and meeting trains.
1	Express 1628.....	17 15	Coal, water, and meeting trains.
1	No. 51.....	16 50	Meeting trains and orders.
2	No. 55.....	18 25	Meeting trains.
2	Extra.....	17 55	Do.
2	No. 55.....	17 15	Do.
2	Express 1508.....	17 45	Do.
2	Express 1510.....	21 10	Do.
2	Express 1515.....	17 25	Do.
2	Express 236.....	16 45	Do.
2	Express 242.....	18 55	Do.
2	Express 1637.....	21 10	Delayed loading sheep and meeting trains.
2	Express 1905.....	18 35	Meeting trains.
2	Express 241.....	20 15	Do.
2	Express 240.....	16 30	Loading stock and meeting trains.
3	No. 55.....	19 35	Meeting trains.
3	Extra.....	19 45	Meeting trains and local work.
3	No. 54.....	16 45	Meeting trains.
3	No. 55.....	22 00	Do.
3	Express 1623.....	16 50	Meeting trains and coal.
3	Express 236.....	16 55	Meeting trains.
3	Express 233.....	20 25	Do.
3	Express 1508.....	17 40	Meeting trains and derailment.
3	Express 232.....	18 10	Meeting trains and switching.
3	Express 1641.....	17 20	Meeting trains and picking up cars.
5	Express 233.....	19 00	Meeting trains.
5	Express 1622.....	19 10	Do.
5	Express 1510.....	18 25	Fireman sick and meeting trains.
5	Express 1630.....	22 40	Meeting trains.
5	Express 1647.....	18 10	Orders and meeting trains.
5	Express 1645.....	17 20	Pick up cars and meet trains.
6	No. 51.....	18 40	Meeting trains.
6	No. 53.....	16 05	Do.
6	No. 54.....	17 12	Do.
6	Express 1508.....	18 50	Running for water and meeting trains.
6	Express 227.....	18 15	Blocked at Sidney and meeting trains.
6	No. 3d 56.....	18 45	Derailment and meeting trains.
6	No. 4th 56.....	18 35	Engine derailed and meeting trains.
7	Extra.....	20 10	Meeting trains.
7	No. 2d 25.....	18 25	Pulled out drawhead and meeting trains.
7	Express 227.....	17 00	Meeting trains.
7	Express 1519.....	20 26	Switching and meeting trains.

Cause of employees being on duty over sixteen hours, November, 1906—Continued.

Date.	Train or station.	On duty.	Cause.
		<i>H. m.</i>	
7	Express 1518.....	20 20	Meeting trains.
7	Express 1624.....	20 00	Do.
7	Express 233.....	16 40	Do.
7	Express 1690.....	16 50	Do.
7	Express 1639.....	17 25	Blocked Rock Springs and meeting trains.
7	Express 1612.....	17 35	Coal, water, orders, and meeting trains.
8	No. 51.....	18 00	Meeting trains.
8	No. 2d 51.....	29 18	Do.
8	No. 53.....	23 49	Do.
8	No. 55.....	20 03	Do.
9	No. 2d 61.....	17 45	Meeting trains and eccentric coming out.
9	Express 1916.....	17 20	Meeting trains.
10	No. 55.....	19 35	Do.
10	No. 2d 55.....	18 00	Do.
10	Extra.....	16 10	Do.
10	No. 55.....	16 20	Do.
11	No. 61.....	16 25	Do.
11	No. 2d 61.....	16 30	Do.
11	No. 3d 61.....	16 05	Do.
11	No. 55.....	17 05	Do.
11	No. 2d 55.....	23 40	Local work and meeting trains.
11	No. 52.....	17 53	Meeting trains.
11	No. 54.....	20 08	Do.
11	No. 2d 54.....	16 35	Do.
11	Express 1515.....	19 35	Running for water and meeting trains.
11	Express 1508.....	17 35	Meeting trains.
12	No. 53.....	16 50	Do.
12	No. 54.....	16 10	Do.
12	Express 1909.....	22 30	Running for water and meeting trains.
12	Express 1510.....	19 35	Do.
12	Express 1624.....	17 20	Do.
13	Express 1095.....	17 15	Breaking in two and meeting trains.
13	No. 55.....	16 40	Meeting trains.
13	No. 54.....	17 35	Do.
13	No. 1st 55.....	18 20	Do.
13	No. 3d 61.....	19 00	Meeting trains and local work.
15	Express 1691.....	17 30	Wind and meeting trains.
15	No. 2d 61.....	17 00	Meeting trains.
15	No. 3d 61.....	19 20	Do.
17	No. 53.....	16 45	Do.
17	No. 2d 53.....	16 10	Do.
17	No. 55.....	18 45	Do.
17	No. 54.....	20 27	Do.
17	Express 1907.....	20 15	Meeting trains and local work.
17	Express 842 and 888.....	19 50	Meeting trains and doubling.
18	No. 61.....	18 10	Meeting trains.
18	No. 55.....	18 40	Do.
18	No. 2d 55.....	19 10	Do.
18	No. 52.....	16 10	Do.
18	No. 54.....	19 00	Do.
18	No. 2d 54.....	18 50	Do.
18	Express 1623.....	20 40	Meeting trains, coal and water.
18	No. 61.....	17 15	Meeting trains.
18	Express 233.....	17 45	Chain up car and break in two.
18	Express 1673.....	20 00	Meeting trains.
18	Express 1642.....	17 10	Meeting trains and general work.
19	No. 53.....	16 10	Meeting trains.
19	No. 55.....	17 05	Do.
19	No. 53.....	16 30	Do.
19	Express 1908.....	22 20	Running for water and meeting trains.
19	No. 57.....	18 20	Meeting trains and local work.
19	Express 1630.....	18 15	Meeting trains and cleaning fire.
19	Express 1635.....	17 35	Meeting trains.
22	Express 1916.....	18 25	Meeting trains and local work.
22	Express 229.....	17 15	Meeting trains.
23	Express 1905.....	23 05	Do.
23	No. 53.....	18 20	Coal, water, and meeting trains.
23	Express 1624.....	18 20	Meeting trains.
25	No. 51.....	18 15	Do.
25	Express 229.....	22 05	Do.
26	No. 61.....	16 55	Do.
26	Express 1644.....	22 05	Coal and meeting trains.
26	Express 1846.....	20 25	Meeting trains.
27	Express 1916.....	20 45	Do.

Cause of employees being on duty over sixteen hours, November, 1906—Continued.

KANSAS DIVISION.

Date.	Train or station.	On duty.	Cause.
		<i>H. m.</i>	
Nov. 12	No. 156.....	18 25	Had to go back to Solomon from Abilene for car.
13	do.....	16 40	Handling stock.
19	do.....	16 40	Break in two and running for water.
20	do.....	16 45	Handling stock.
21	do.....	17 50	Do.
29	Express 1473.....	16 50	Hot box.

COLORADO DIVISION.

Nov. 9	No. 3d 155.....	16 25	Local work.
20	No. 154.....	17 45	Frosty rails.
26	Express 1696.....	16 05	Chaining car and chain broke.

TELEGRAPH DEPARTMENT.

Nov. 1	Omaha.....	17 00	1 operator; bad weather and slow work.
2	do.....	17 00	Do.
12	do.....	17 00	Do.
12	do.....	18 00	Do.
15	do.....	17 00	Do.
20	do.....	17 00	3 operators; bad weather and slow work.
20	do.....	18 00	1 operator; bad weather and slow work.

W. T. PARN, *General Superintendent.*

OMAHA, NEBR., *December 17, 1906.*

Statement of accidents in train service on Union Pacific Railroad, month of November, 1906.

COLLISIONS.

	Number of train accidents.			
	Butt-ing.	Crossing and other.	Total.	Esti-mated damage to prop-erty.
Failure to give or observe signals.....	1	1	2	\$351
All other collisions.....		1	1	255
Total.....	1	2	3	606

DERAILMENTS.

	Total.	Esti-mated damage to prop-erty.
Defects of road:		
Loose or spread rail.....	2	\$195
Soft or rough track.....	1	144
Total.....	3	339
Defects of equipment.....	1	325
Total derailments.....	4	664

Total train accidents, 7; estimated damage, \$1,270.

Statement of accidents in train service on Union Pacific Railroad, etc.—Continued.

CASUALTIES TO PERSONS OTHER THAN ABOVE.

	Employees.						Others killed trespassing.
	Trainmen.		Switchmen, flagmen, and watchmen.		Other employees.		
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	
Coupling or uncoupling cars.....		3		1			
Falling from trains, locomotives, or cars.....	1	2				1	1
Getting on or off trains, locomotives, or cars.....	1	3	1	1			
Struck by trains, locomotives, or cars.....					1		
At stations.....					1	1	1
Other causes.....		6		2			
Total.....	2	14	1	4	2	2	2

November, 1906, compared with November, 1905.

	Per cent.
Locomotive miles, increase.....	10.46
Number of accidents, decrease.....	75.00
Property damage, decrease.....	90.32
Locomotive mileage:	
November, 1906.....	1,551,621
November, 1905.....	1,404,724

Train accidents per million locomotive miles, November, 1906.

	Number.	Property damage.
Collisions.....	1.93	\$391
Derailments.....	2.58	429
Defects of roadway.....	1.93	219
Defects of equipment.....	.65	210
Total.....	4.51	820

Mr. BALDWIN. Mr. Mudge, the vice-president of the Rock Island road, had come from Oklahoma City, and as you were unable to hear him last week he left a letter or memorandum, which, without objection, I would be glad to have inserted in the record.

The CHAIRMAN. If there is no objection that will be done.

Now we will hear from Mr. Martin, of the New York, New Haven and Hartford Railroad. He is here.

STATEMENT OF MR. A. W. MARTIN, ASSISTANT GENERAL SUPER-INTENDENT NEW YORK, NEW HAVEN AND HARTFORD RAILROAD.

Mr. MARTIN. Mr. Chairman and gentlemen, Mr. Willard has spoken very candidly and covered practically the position of our company. We have perhaps 12,000 or 15,000 people affected by this bill. We are practically living up to its provisions to-day. We are in full accord with the Government in putting this bill into effect. We think in some ways it is a little bit too drastic. But your amendment will cover most of it.

I simply want to call your attention to just one thing, and that is the use of the word "permit," and I will say why. In the territory under my jurisdiction we run about 1,500 trains a day. That covers

something like 300 train crews. From that you will see that we have engine dispatchers and men in charge of the locomotive department, and it may easily happen that some lower officer, even perhaps a \$2 a day man, may, without the knowledge of the officers of the company, and without their sanction, use some man who has been out perhaps sixteen hours, or perhaps 12 hours, and he may be put on a train that will take eight hours more, and we would not know that. Therefore the officers of that company, especially the operating officers, do not want to be held criminally liable for some matter like that which an under officer or employee may do, and I simply suggest that that point be protected.

Then, another thing. The hours of duty referred to in the bill should be made the hours of work. In this large number of crews that we put out—and on our entire system there are something like 500 of them—many of these men make less than 100 miles a day. Many of them make less than four hours on the road—four hours' work—but they are "on duty," and by that we mean the time we pay them, from the time they begin until their run ends—for the hours they are "on duty," and I ask the committee not to confuse the hours of duty with the hours of work. Beyond that, I think the ground has been very well covered.

[Thereupon, at 12.10 o'clock p. m., the committee adjourned.]

Mr. W. W. Baldwin submitted the following for Mr. Mudge:

STATEMENT OF MR. H. U. MUDGE, VICE-PRESIDENT OF THE ROCK ISLAND LINES.

Mr. MUDGE. Mr. Chairman and gentlemen of the committee, my name is H. U. Mudge. I reside in Chicago, and am vice-president of the Rock Island lines; in charge of operation since May 1, 1905.

Prior to that I was for thirty-two years continuously in the service of the Atchison Road, as follows: I was a telegraph operator for two years; then a brakeman one year; conductor for seven years; train master three years; road master two years; division superintendent six years; general superintendent for six years, and then general manager for five years. I resigned there to accept my present position.

Railway operating officials are in accord with the general movement to regulate the hours of actual service of employees engaged in the handling of trains, and are now enforcing restrictions practically as rigid as those proposed in this bill; but with the varying conditions under which freight transportation is performed in a large section of this country it has been found impossible to keep strictly within these rules under all emergencies without seriously delaying the traffic of the country.

The elimination of railroad wrecks is the subject of more anxiety and consideration on the part of railway officials than any other one thing, and if any officer believed that the proposed law would prevent one disaster, the officials and those financially interested in the property would be the first to ask for such legislation.

A glance at the records of the Interstate Commerce Commission will show that only a small percentage of the wrecks reported have

occurred to trains that had been on the road sixteen hours, and of this small number only a small proportion could by any possible stretch of the imagination have been the direct result of such hours of service. In a large part of the territory covered by the Rock Island lines the traffic is composed largely of grain, cotton, and live stock. The movement of this product must be condensed into a short period of time, and even the best that can be done in expediting the movement of these crops is not satisfactory to the producing and shipping public, as witnessed by present complaints of car shortage and delays in movement of traffic.

In the more densely populated portions of the country it may be possible to retain a sufficient force, or to increase the forces periodically to effectively take care of the increases in traffic; but in the more westerly States it is absolutely impossible to retain a sufficient number of men during the months of light traffic to properly handle the heavy traffic when offered. And it is also impossible to secure additional forces on short notice.

The present congestion and delay to traffic is due to a shortage of men, and under the rules already enforced by the railway companies regulating hours of service many locomotives are lying idle at terminals waiting for crews to take sufficient rest. If, in addition to these rules, it is required that crews take rest between terminals, as will occasionally be imperative under such a law, we shall greatly enhance the difficulties and will not add to the safety of our trains.

It is not the general provisions of the bill that are objectionable, but the difficulty of providing sufficient margin to keep absolutely at all times within the requirements.

Railway officials have very willingly inserted in all agreements with train and enginemen a clause permitting the men to take rest at their discretion, or when they feel the need of it, and the men are daily availing themselves of this privilege.

Most operating officials of American railways have, like the writer, been employed in train service during some portion of their lives, and have therefore had much actual experience in the matter under consideration. Such officials know that the actual hours between the time called on duty and the time released from duty is not a fair measure of a man's mental or physical condition, and that on some trips the obstacles and difficulties to be overcome will be more wearing on the men in ten or twelve hours than on some other trips of twenty-four hours or more. For this reason a man should be permitted to take rest in less than sixteen hours, if required, and should not in all cases be required to desist from work at the end of sixteen hours, when he feels himself perfectly able to continue to the end of the division, where he can rest with some comfort.

While it was for many years thought sufficient to place the men on honor and hold them responsible for taking such rest as they felt necessary, it is found that there is a sufficient minority of the men, and particularly of the transient men in the service, who, wishing to make all the money possible in a short time, can not be trusted to take rest, and for this reason the rules have been made imperative that a man will not be permitted to remain on duty excessive hours or to go on duty without sufficient time for rest. The train dispatcher who knows the conditions under which each trip is made, and who

knows the temperament and capacity of each individual, is in a better position to regulate this matter and to judge of the emergency which requires an exception than any one else can possibly be, and any hard and fast rules, such as are proposed in this law, will only serve to block the wheels of commerce, will increase the already arduous duties of the train dispatcher, and will put him under a constant strain for fear that in some unguarded moment he may violate the law by permitting a crew to remain on duty a few minutes more than the regulated time and be subjected to a fine which he would be unable to pay.

On many of the western railways division points were located long distances apart for various reasons. In many cases it was sought to establish them at towns where the employees could have the benefit of schools for their children. At others because no adequate water supply could be obtained at other places, and in all cases the traffic was then so light that long runs could be made with comparative ease and without running at excessive speed, because of the infrequency of trains to be met. As traffic increased, delays in meeting and passing trains required faster running time between stations, and finally the establishment of new terminals and shorter runs. Many new terminals have already been established, others are under construction, and a large number are under consideration, but it will require time and many millions of dollars to accomplish this.

As illustrating some of the difficulties under which some of the western roads are laboring, the Rock Island Company moved, on its entire line in October, 1906, 46 per cent more tonnage than was offered for movement in the month of June. But this general fluctuation in traffic, great as it is, was largely exceeded on some divisions. The writer has recently investigated conditions in Oklahoma and Indian Territory, where the cotton crop and grain crop moves simultaneously with the heavy movement of coal, and where the slow movement of traffic has resulted in a complaint from the shipping public because the crops have not been moved with greater dispatch. This complaint is now the subject of an investigation by the Interstate Commerce Commission. The graphic statement herewith appended shows the ton-miles handled on the Oklahoma and Panhandle divisions each month for the past three years. These divisions include over 1,000 miles lying entirely within the Territories above mentioned. In the month of June the movement on the Oklahoma division was equal to 16,000,000 tons of freight 1 mile; in August, 28,000,000 tons 1 mile, or an increase of about 80 per cent.

On the Panhandle division in June 12,700,000 tons; in July 22,700,000, and by October it had increased to 24,000,000, or an increase between June and October of nearly 100 per cent. The results on these two divisions are merely used as an example, the figures having been prepared for another purpose.

I believe it will be readily conceded that it is no small task to expand an organization sufficiently in sixty days to increase the movement of traffic 80 per cent.

The Illinois division of the Rock Island Railroad is a double-track line. The freight-train runs are between Blue Island (a suburb of Chicago) and Rock Island, distance 166 miles. Under ordinary conditions the movement of traffic over this division is comparatively free, the runs with heavy freight trains being made in nine or ten

hours and on fast freight and stock trains in from six to eight hours. Under a custom which has existed for many years live stock for the Chicago market moves very largely on two days of the week, and passes over this division between the hours of 6 p. m. and 7 a. m. in order to reach the morning market. Under this law the crews going out on through freight trains will be obliged to remain at Rock Island not less than eight hours and can not double back with these stock trains. Crews and engines will have to be provided some time in advance to guard against possible delays, and this restriction will cause serious delays in the movement of this live stock at times in spite of all precaution.

From recent talks with some of the most reliable men in the service of our company, I am convinced that this class of men, who constitute a very large majority of the men in service, do not want this law, because they realize that they, and the officers directly in charge of transportation, can guard their safety much better than it can be done by an inflexible law. And had they fully understood the proposed restrictions they would have made more strenuous objections to it, as it will force many of them to sacrifice their homes, with no offsetting benefits in the way of safety. The title of this bill and its object looks so reasonable that few even of the railway officials have given it the consideration that its importance warrants. If made effective at once, or even in six months from date, its results will be far-reaching and will add to the many difficulties confronting those who are charged with the duty of moving the present enormous commerce of the country.

Railway officials would prefer to trust their own lives, and those of passengers intrusted to their care, to an engineer or conductor of long service and good habits for a longer period than sixteen hours than with the transient men who will be picked up to move the traffic in times of heavy movement, no matter how few hours such men may work, because the records will show that men of the former character very seldom sleep and run by signals under any circumstances, while the transient men do this with no reason whatever and when only on duty a few hours. For this reason a law which will increase the necessity for frequent additions to the service will, in my judgment, increase the hazard of accident.

Limiting the hours of service of the class of men above referred to will not lessen the trouble unless it is also possible to follow these men through the rest period and ascertain what use is made of the time allowed for rest.

As stated before, the majority of men in service do not want this law, and in urging its passage the leaders of the railway labor organizations do not properly represent the views of the masses, but simply represent what they themselves believe to be to the interest of the organization. Unfortunately these organizations are forced to take care in some manner of a large floating element of inferior men. In seeking to limit the hours of labor, they hope to provide additional work for these men. As the basis of pay of all western roads is by the mile, the railway company has no interest in reducing the number of men on the pay roll. On the contrary, it will cost them less to provide a sufficient number of men so that no overtime will be necessary. But under the present prosperous condition of the country, it is impossible to increase the number of men sufficiently to handle

the crops with the dispatch required or to handle the large increase in coal production during the winter months.

Under the restrictions imposed by this law, it would be necessary to spread the movement of crops over a longer period of time, at least while the present scarcity of labor exists. This is not objectionable to the railways, but is evidently very seriously objected to by the public. The productiveness of the men regularly employed would be greatly reduced, not on account of the frequency of cases where men are actually on duty more than sixteen hours, but the fear on the part of the train dispatcher that this might occur, and therefore the necessity on his part of providing a safe margin against emergencies.

I believe that the steps already taken by the railway officials to restrict the hours of service will accomplish more than can possibly be done by a law which in the nature of things can not permit any elasticity, and which will prove very quickly to be so obnoxious to the shipping and traveling public as to render it inoperative.

It is the belief of the writer that the hours on duty have practically no bearing on the matter of accidents; that the cause is deep rooted, and that it will require action on the part of the constituted authorities to eradicate it; that individual responsibility for violation of rules will have to be met with some more severe punishment than can possibly be assessed by the railway officials themselves under existing conditions.

If, notwithstanding the above facts, public sentiment requires that some such law be enacted, then in all fairness its operation should be suspended a sufficient time to enable the railway companies to reestablish and rebuild their division terminals, either by making it inoperative until a given time or by clothing the Interstate Commerce Commissioners with power to suspend its operation until, in their judgment, the roads have had sufficient time to accomplish these results. In other words, it should be given the same consideration as was the safety-appliance law.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
January 25, 1907.

The committee met at 10.45 o'clock a. m., Mr. Hepburn presiding.

STATEMENT OF HON. ARTHUR P. MURPHY.

The CHAIRMAN. Mr. Murphy, you can have just twelve minutes.

Mr. MURPHY. I will get through in that time.

The bill is H. R. 24606. Senate bill 5133 is in reference to any employee engaged in or connected with the movement of any train, and the House bill is practically the same; which would include telegraph operators and train dispatchers. I was going to suggest an amendment to the sixteen-hour bill, to come in as a proviso, either at the end of the first section of the Senate bill or at the end of the first section of the House bill. The proposed amendment is as follows:

Provided, No operator shall be required to be on duty more than eight hours in any twenty-four consecutive hours, except in case of emergency may be permitted to be on duty not more than twelve hours in any twenty-four hours or not to exceed

three days at any one time, and, except at such points where only one operator is employed in the day time and having no night operator, such employees may be permitted to be on duty not exceeding twelve hours in any twenty-four consecutive hours, provided that in case of wreck or accident such operator may be permitted to remain on duty as the occasion may require. The term "operator" shall include train dispatchers, and shall be defined and construed to mean an employee who, by the use of the telegraph or telephone, dispatches or reports, transmits, receives, or delivers orders pertaining to or affecting the movement of cars, engines, or trains, or who handles such cars, engines, or trains by or under what is known and termed the "block system." The term "block system" shall be defined and construed to mean reporting cars, engines, or trains to another office or offices and to the train dispatcher, registering the same and operating one or more order or signal devices, and manipulating signal devices affecting the movement of cars, engines, or trains from stations or towers in railroad yards or on main tracks; that "cars, engines, or trains" as used in this provision shall be defined and construed to mean those carrying or hauling interstate or foreign freight or passengers.

I speak to the eight-hour bill and to this amendment to the sixteen-hour bill, from having had eight years' experience as a railroad operator. I know what their duties are and what is required of them, and I believe that I can show to the committee that when we commence to give the trainmen sixteen hours and continue the operators and in some roads the dispatchers twelve hours and sixteen hours we are commencing at the top of the house to build instead of commencing at the foundation. No train can leave a terminal unless it first receives the permission of the train dispatcher, and its orders or clearings, whichever it may be, through the operator; and it can not pass the first station, should it be a block, and in many instances where the block is not used, without the permission of that operator or dispatcher.

An operator is required, in addition to his telegraphic duties, where the post-office is within the required radius under the law, to carry the United States mails from the post-office to the depot, put it on the trains, take care of it, take it off, and in the morning take it back to the post-office; and the same in relation to day trains. The operator in addition to his duties of telegraphing, receiving orders, handling his block, and keeping his block sheet, is required to sweep out the depot; he is required to sell tickets, at a great many stations both local tickets and coupons; he is required to handle all of the baggage—check it, truck it, put it on the trains, take it off, and put it in the house. In addition, he is required to handle all of the express. At stations where they have no electric lights—and the company generally puts them in when they almost give them to them—they are required to take care of their signals and all of the lamps used in and about the depot. They are required on a great many of the roads—all that I know about—to take care of the switch lamps or lamps that are on the switch targets; to clean them, take care of them, put them out and take them in.

On roads that I have worked on when they want supplies for those switch lamps they must go to the section foreman to get them. In addition to that the operator is required, if the local train comes along late at night, to assist unload the freight on the platform, and after that put it in the house alone. In addition he is required to book all the freight that comes in. At one station where I worked, a town of 2,000 inhabitants, I was the only night man, and besides the freight that was unloaded, we received from two to three cars of freight for that station and a great many inland stations. He is required to book that freight in the freight book, which is almost a copy—in fact,

it is a copy—of the waybill. In addition to that he is required to expense those freight bills.

Mr. GAINES. What is that?

Mr. MURPHY. That is the receipt that is given to the shipper, which gives virtually a description of the waybill and each item. It is called an expense bill.

Mr. RYAN. How many hours did you have to work at that station that you speak of

Mr. MURPHY. Twelve hours.

Mr. RYAN. How many orders did you as train dispatcher receive in twelve hours?

Mr. MURPHY. From fifteen to twenty at night.

Mr. RYAN. Was that a single or double track?

Mr. MURPHY. Single track.

Mr. RYAN. How many orders do you think an operator can handle on a single-track road, a busy road, in eight hours?

Mr. MURPHY. Sixty or seventy orders would be a heavy eight hours' work.

Mr. RYAN. And on many roads they handle much more than that in addition to their other work?

Mr. MURPHY. They do; yes, sir.

Mr. GAINES. Do you mean that he could handle that many if he had nothing else to do?

Mr. MURPHY. If he had nothing else to do.

Mr. RYAN. But he handles more than that, together with many other duties?

Mr. MURPHY. The train dispatcher does; yes, sir.

As to the question of safety, when a man travels on a train he is in the hands of one train crew, but on each hundred miles of track he is in the hands of from 20 to 30 operators and train dispatchers. And the wage question incidentally comes in here. These operators are now paid a trifle more than is paid to section men for digging on the track; their pay is about equal to a section foreman's wage. On one road that I have investigated that goes out of Washington, up until March 13, 1906, 300 operators were required to work from twelve to fourteen hours at a salary of \$18 a month and perform all of these duties. Their salary now is \$45 a month, under the contract with the Order of Railroad Telegraphers; but at that time they had, in addition to that, twenty-seven rates of pay at less than \$55 a month.

Mr. ESCH. That is, telegraphers alone?

Mr. MURPHY. Yes, sir; twenty-seven rates of pay. That means that a hundred of them would probably be receiving \$19.50 a month and probably another hundred receiving \$25.50 a month. There were twenty-seven rates of pay less than \$55 a month on that road.

Mr. RYAN. I would state right there that Representative Garber, of Ohio, informed me that he had worked on the Pennsylvania from twelve to twenty-four hours for \$37.50 a month.

Mr. MURPHY. I worked for \$39.

Mr. BARTLETT. Do the railroads board the operators?

Mr. MURPHY. No, sir; they do not. On that same road which I investigated I found that in five years there had been 50 accidents attributable to overworked and inefficient operators.

Mr. GAINES. How many were overworked and how many inefficient?

Mr. MURPHY. I did not take that in.

Mr. RUSSELL. What road do you refer to?

Mr. MURPHY. I would not like to refer to the road; but it enters Washington here.

The CHAIRMAN. How do you arrive at that conclusion of yours that the result was from overworked or inefficient operators? Do you mean to say that because an error was made the operator was therefore inefficient?

Mr. MURPHY. No; I do not mean that. I might say inexperienced; young fellows with little experience who had probably only been at work two, three, or four months. I got that from the Interstate Commerce Commission, and then I went over to the Library and looked up some of these cases in the local paper.

The commercial companies who must depend absolutely upon their tolls from telegraph service and who must have efficiency, promptness, and correctness—both the Postal and the Western Union—work their day men nine hours and their night men seven and one-half hours. They have three shifts—from 8 o'clock in the morning to 5 in the evening, from 5 to 12.30, and from 12.30 to 8.

The CHAIRMAN. Is that a universal rule with those two companies?

Mr. MURPHY. Yes, sir; in their offices where they work more than one man. It is twelve hours out on their lines where they work one man. I believe it is eleven—they get an hour at noon.

The CHAIRMAN. Is it not true in the minor offices that you speak of, that the railroad operator and the operator of the Western Union or the Postal are the same man?

Mr. MURPHY. Yes; in addition to these other duties that I have enumerated, the operator must also receive the commercial messages.

The CHAIRMAN. Do the general business?

Mr. MURPHY. Yes, sir; he must do the commercial business in addition.

The CHAIRMAN. In your opinion, as to what proportion of all the offices in the United States where train orders are received, is this latter statement true; that is, with regard to the commercial business?

Mr. MURPHY. It is true in nearly all of them. On the road on which I live, between St. Louis and Springfield, 239 miles, the railroad operators do all of the commercial business.

The CHAIRMAN. I mean where they have not a single operator, what proportion of all the stations would be covered by that statement?

Mr. MURPHY. I could not state that now, because some of them have got in their block system, and have probably put on two men.

The CHAIRMAN. Even that would be a very small proportion, would it not?

Mr. MURPHY. Yes, sir.

The CHAIRMAN. The block system does not cover one-tenth of the mileage of the United States, does it?

Mr. MURPHY. No, sir; it does not.

I would like to call the attention of the committee to the report—

The CHAIRMAN. We will have to adjourn now. You may hand to

the stenographer such further material as you may wish to present, and it will be inserted as part of your remarks.

Mr. MURPHY. Very well.

The matter referred to is as follows:

CONTINUATION OF REMARKS OF A. P. MURPHY, OF MISSOURI, ON THE
AMENDMENT TO THE SIXTEEN-HOUR LAW, BEFORE THE HOUSE COM-
MITTEE ON INTERSTATE COMMERCE.

It has been suggested that I am enumerating the duties of the operator of years ago, and that such were the duties of what is known as the ticket agent and operator. Not so. I am detailing and have outlined the duties of a night operator of to-day at the average station, derived from personal observation and by going into various offices and taking hold of the key and assisting in the work. I am devoting my remarks to the night operator, for I believe the people of the country are deeply concerned in knowing whether, when asleep in their berths at night, they will be plunged into a wreck, collision, or otherwise, by an operator on account of having to work twelve hours every night, every day in the year. It has also been suggested that an operator at an average station has nothing much to do; for the sake of argument admit that contention to be true; we must all agree that one thing he must do, and that is, stay awake in order to protect not only the lives of passengers, but of the train crews on the great number of freight trains passing his station during the night.

I can cite an instance within the past two weeks, where, in Kansas in the early morning hours, an operator let a train by without an order which he had lying on his table before him; it was a passenger train and had the right of track, or, in other words, was a superior train; the order was for a freight train to meet this passenger train at a certain station; the freight train had the order, the passenger train did not; a lady operator at another station heard the operator tell the dispatcher of his failure to deliver the order, and with coolness she went to the telephone and tried to raise a relative of hers at the intended meeting point; being unable to raise him, she succeeded in getting hold of a farmer close by, explained the situation to him, and told him to take a red cloth, wrap it around his lantern, and go down the track and flag the passenger train, which the farmer did, and averted a collision. Who can tell what the result would have been had these trains met on the main track? You all remember that a short time since President Spencer, of the Southern Railroad, lost his life through the mistake of an operator. I might cite other instances which I have in mind, a great number of them.

Let me remind you, gentlemen of the committee, that Congress has written in the statute books that Government employees shall not be required to work more than eight hours; these Government employees work in the daytime, without the responsibility of the loss of human life. Will we deny, then, that it is but right and just, not only to the operators who by a single mistake might snuff out the lives of a hundred people, but to the safety of the people, that they should not be required to work more than eight hours?

But it has been suggested that the railroads could not obtain operators to increase the necessary force. Could not this same argument be advanced against the sixteen-hour measure, when petition after

petition has been filed here stating that the railroads would have to increase very materially their force of train men? Let the railroads pay a living wage and they will get the men.

As I have stated, the very foundation of train life is the train dispatcher and the operator. This question is not a new one, by any means; it has been investigated by the Government and recommendations made which were adopted by this committee in its report on H. R. 18671 on May 31, 1906, as follows (p. 39 of the report):

The Interstate Commerce Commission in its eighteenth annual report (1904) made the following pertinent recommendation: "The part played by excessive hours of labor in causing railroad accidents is a question that calls for serious consideration. * * * If there is any reason for limiting the hours of labor in any employment, it applies with peculiar force to the operation of railroad trains, since the safety of the traveling public is so largely dependent on the alertness and intelligence of train employees."

And again:

In the last annual report, that for the year 1905, the necessity for legislation preventing excessive hours of labor is set forth as follows: "Another important feature of railroad operation is the hours of labor of railroad employees, especially of enginemen, conductors, and other train men, telegraph operators, and signalmen. All these men are constantly charged with delicate and responsible duties, and they should never be on duty except when in good physical and mental condition. * * * The disposition of men to work beyond reasonable limits of physical endurance, for the sake of facilitating the business of the railroad or to increase their earnings, may be seen in other departments than the train service. Signalmen, who usually work regular turns of twelve hours each, sometimes take each other's places in case of sickness or an unexpected call of a man away from his home, and thus remain on duty thirty-six hours at a time. This defect in the service, due to overwork, is frequently discovered in conjunction with a deficiency of another sort—inexperience. Men who have been but a few months in the service, and who have yet much to learn concerning some features of their duties, should be required to comply with the rest-time regulation with the most scrupulous care; yet it often happens, as has been shown in the accident records, that new men, admittedly less competent for their duties on that account, are the very ones who have been put to the additional test of working over hours."

Now these are the recommendations and findings of the Interstate Commerce Commission, and I believe ought to be accepted by this committee, for they certainly have thoroughly investigated the matter and know whereof they speak.

In his message to the first session of this Congress the President said:

The excessive hours of labor to which railroad employees in train service are in many cases subjected to is also a matter which may well engage the serious attention of the Congress. The strain, both mental and physical, upon those who are engaged in the movement and operation of railroad trains under modern conditions is perhaps greater than that which exists in any other industry, and if there are any reasons for limiting by law the hours of labor in any employment, they certainly apply with peculiar force to the employment of those upon whose vigilance and alertness in the performance of their duties the safety of all who travel by rail depends.

This is given in the report heretofore referred to and applies with great force to the foundations of train life, the operator and dispatcher.

Let me cite you to a portion of the findings of the coroner's jury in the Terra Cotta wreck investigation:

We recommend that all block signal stations be kept operating twenty-four hours a day, and that no additional duties, aside from working the signals and attending to the telegraphic duties, be imposed upon operators.

And this jury further found—

that the wages paid to the operators and signalmen are not large enough to secure the services of competent and reliable men.

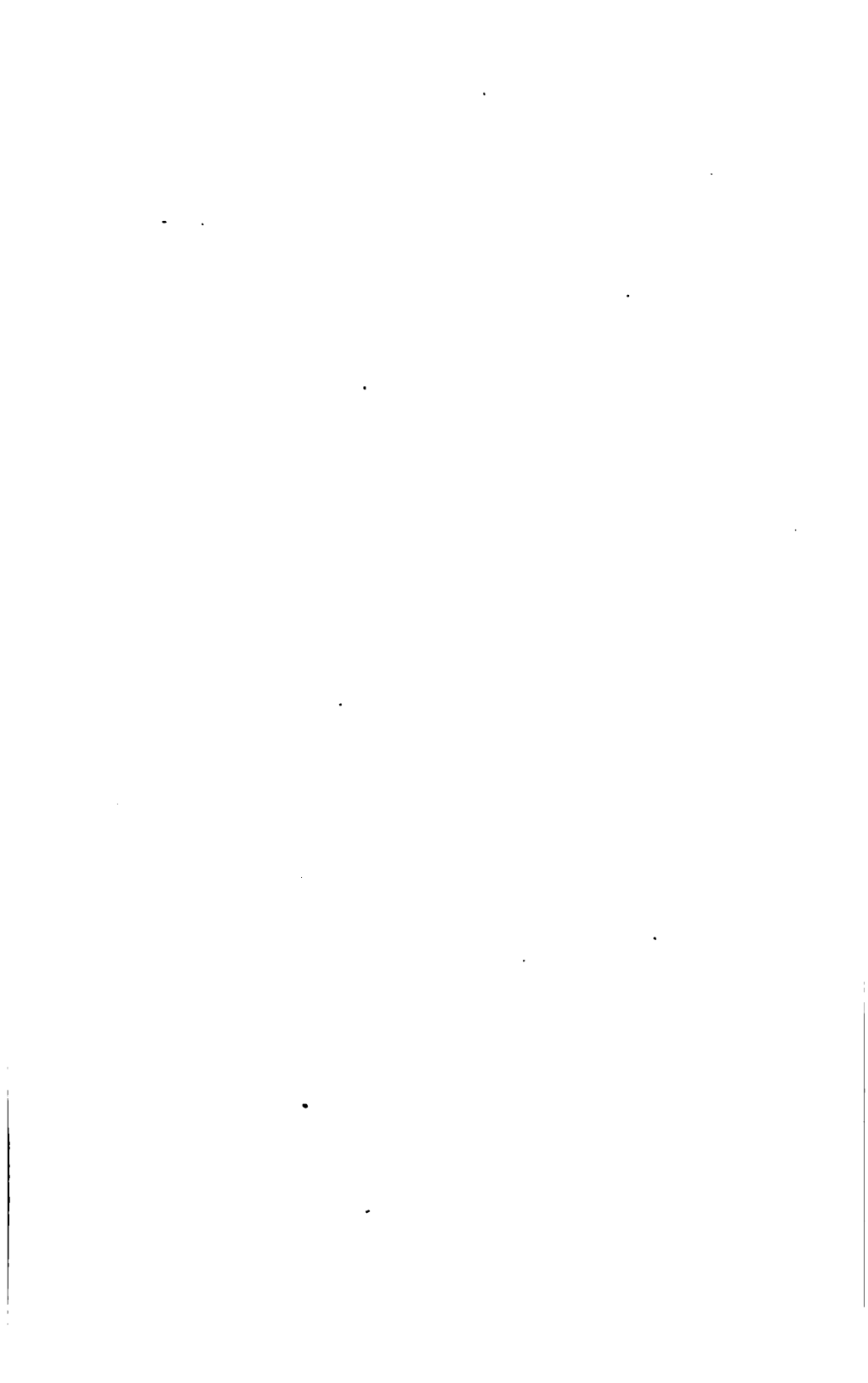
As I stated, this is not a new question; the legislature of Maryland investigated this subject and passed a law forbidding railroad companies to work operators more than eight hours without, as I remember, exception. (See laws of Maryland, 1906.)

The chairman has suggested that not one-tenth of the country, or rather the railroads of the country, are operated under the block system. Technically speaking this is true; but almost every railroad in this country, practically all, are operated under what is known and called "Standard rules;" these rules provide that freight trains shall not be permitted to follow each other out of or by stations for a certain number of minutes, and increases the time that a freight train shall follow a passenger. The operator is required to hold these trains apart by the use of his train-order signal. Is not this a species of block system, and is it not necessary for the protection of somebody? Thus we may say the railroads of the country are operated under a block system.

This amendment goes simply to the question of hours, and provides for every contingency or emergency that can arise. It is fair not only to the operators and the railroads, but I believe it to be necessary to the safety of the traveling public. I am aware the railroad companies will oppose it and will urge the threadbare argument used invariably by them in their opposition to all bills affecting them, by citing figures showing how it will affect their earnings, etc. But I do not care to sacrifice my life, nor to offer up the lives of any of those that are dear to me, nor of any of my friends, in order to enable a railroad to increase its earnings. I believe the amendment ought to be adopted by this committee and made a part of the sixteen-hour bill and reported.

Whereupon (at 12 o'clock m.) the committee adjourned.







HEARING

BEFORE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES

ON THE

PANAMA CANAL CONTRACT



WASHINGTON
GOVERNMENT PRINTING OFFICE
1907



ISTHMIAN CANAL.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Monday, February 11, 1907.

The committee met at 10.30 o'clock a. m., Hon. Irving P. Wanger in the chair.

The CHAIRMAN. The committee is in session in consequence of the arrangement of Saturday, to consider the matter of legislation in relation to the Panama Canal and the proposition to contract for the work. The chairman of the Isthmian Canal Commission is here. Is it the pleasure of the committee to proceed?

Mr. STEVENS. Is Secretary Taft here?

Mr. WARE. He said that he would be.

Mr. SHONTS. Secretary Taft will be here shortly.

Mr. WANGER. Mr. Shonts, if you will take the far end of the table I think we may proceed, pending the arrival of the Secretary.

Mr. BURKE. I would like to inquire, Mr. Chairman, if you purpose eliciting the same evidence which was given on Friday before the Appropriations Committee? A good many members of this committee were present at the hearing at that time, and it has occurred to me that we might incorporate that evidence in our record, so that it may not be repeated and we may save time. However, I have no motion to make in regard to the matter.

(At this point Secretary Taft arrived.)

Mr. WANGER. The Secretary having arrived, he will be first heard.

Secretary TAFT. Mr. Chairman, if I may make a suggestion as to the order of procedure, I would like to have Mr. Rogers make a statement in regard to the contract, as briefly as he can, because he is much more familiar with the particular provisions than I am. I will be glad subsequently to give information on the general subject.

STATEMENT OF RICHARD REID ROGERS, ESQ., GENERAL COUNSEL OF THE ISTHMIAN CANAL COMMISSION.

Mr. ROGERS. I will say by way of introduction that the scheme of building the canal by contract is one which has always been before the people who have been associated with the prosecution of this work, and likewise has been in the minds of a number of Congressmen. Last winter, I believe, at the hearings before the different committees it was stated by the Secretary of War, by the chairman of the Commission, and by the chief engineer that when an opportune time arose an effort would be made to secure the construction of the canal by contract. It was impossible to do that then, because the type of

the canal was not settled until the end of June, and prior to that time the energies of the Commission had been devoted to the work of preparation, the sanitation of the Isthmus, the preparation of quarters, hospitals, the organization of the government of the Isthmus, and matters of that sort. Besides, during the experience of a year or more we have had in work upon the canal the general character of the work to be done by the contractor became better defined, and we are in a better situation, perhaps, to form some broad estimate as to the probable cost of the work.

Immediately after the adjournment of Congress the chairman proceeded to the Isthmus with the Commission, and there the general question of the contract was discussed, and before his return to the United States a memorandum had been entered into between him and Mr. Stevens giving the broad general outlines as to the form of the contract. I then took the matter up with the chairman. We had very many conferences in New York with practically all of the leading contractors in the United States, and later on with their counsel. After the form of contract had taken a more or less definite shape we came to Washington. We had a number of conferences then—the matter having been prior to that time laid before the Secretary of War and the President—with those two gentlemen, and we also had the benefit of the advice of Mr. Root. The contract was then put out. At the time it was put out there were some questions that were not entirely settled in the minds of the Commission. While the contract was pending, we received the benefit of still further suggestions, and as a result of all this, after having weighed all the suggestions that had been made on behalf of contractors, and at the same time having considered on our own account the protection of the Government, we reissued the contract under the date of December 12. In the form in which we reissued it I believe it had the entire approval of the executive officers of the Government, the chairman, the chief engineer, and others. After that there were no further changes made.

The contract is what is known as a contract upon a percentage basis. That was the first general point which was decided. It was obvious from the very outset, on account of the peculiar character of the work down there, that it would be impossible to get desirable bids for the construction of the canal as a whole. Besides, that would be too rigid a form of contract for the Government, and the difficulty of entering into specifications sufficiently definite for bidders to submit estimates was so great that it would have delayed the work of contracting out the canal—possibly a year, it was estimated. Then, in addition to that, the great element of uncertainty, of contingency, that would enter into the calculations of the contractors would undoubtedly, as we have learned since from conferences with contractors, have enhanced their bids 25 to 33 per cent over and beyond what would have been the apparent cost of the canal to the contractors. So we decided upon the percentage plan. That was very much more flexible. It enabled the Government to change at any time its plans and specifications, and that without injury to the contractor. Having decided that point, the next question which arose was how far we should ask the intervention of the contractors in the matter of building the canal.

Now, it was entirely obvious that there were certain functions that ought to be discharged by the Commission, those functions involving

the discharge of trust duties, in a way. The contractor, of course, could not carry on the government which, under our more recent ideas of the way that government should be conducted, ought to be closely associated with and molded to the work of the construction. The sanitation of the Isthmus could not be carried on by the contractor, because it was indefinite in itself and also because that was a matter that was so intimately concerned with the whole life of the enterprise that special care and attention should be devoted to that. Then there was the Panama Railroad Company. When the United States Government took over the Panama Railroad Company, as a part of that trust they took over the obligation to provide for traffic which used the Isthmus from the different parts of the world, which went by that route, and that was obviously a thing that could not very well be intrusted to the contractor.

Besides, we wanted the attention of the contractor concentrated on the exact work which we were going to require him to do.

Then it came to the question of materials and supplies. Our past experience had shown that we could acquire, by the competitive system of bidding for supplies in the United States then in vogue, the supplies and plant for the canal quite as cheaply as any contractor could do it. So there were all these things in which the intervention of the contractor seemed to give no possible advantage. What we wanted was the general experience of the contractor in the work of actual construction. We wanted the benefit of the experience of an association of contractors whose experience combined would cover the whole field of work to be performed down there. We wanted the benefit of their skilled labor organizations. Large contracting firms in the course of many years would necessarily accumulate a staff of efficient workmen upon whom they could rely. It was thought by the chairman and the chief engineer and by the Secretary that we ourselves could do that in time, but it would take time, and a considerable time. If we could get an association of contractors whose actual plant in the United States, including in that expression their personnel, was perhaps twice as large as the number of laborers and skilled workmen that would be required on the Isthmus, we would have a source upon which we could draw from time to time for that very necessary and for us very difficult element to obtain for the construction of the canal. So we fixed the line right there as to the work which should be done by the Commission and as to the work that should be done by the contractor. That is, we decided to confine the contractor to the work of actual construction. All the other general duties connected with the construction of the canal were reserved to the Commission.

Another advantage has ensued from that, that the contractor does not derive a commission upon that portion of the work which is done by the Government. We furnish the plant; we furnish the material, which is not a principal item entering into the cost of the canal, and upon those items of course the contractor draws no percentage. So the line was drawn there. There was only one exception to that, and that was with respect to hand tools and minor machinery. It was decided that as the cost of these things would not be great, the contractors might furnish them. Many of the contractors' men would furnish their own tools, and many of them would be more familiar

with the tools that they wanted for the work than anyone else could be, and it was not a matter of much importance.

Mr. ESCH. How about the cement laid down on the Isthmus?

Mr. ROGERS. I will come to that.

Mr. WANGER. Is he allowed for that?

Mr. ROGERS. Yes, sir. If you will allow me to proceed—

Mr. WANGER. Certainly.

Mr. ROGERS. We make all repairs upon the plant. You can see very readily that on the general principle, as I have explained it, of compensation, the more the Government furnishes the cheaper it is to the Government in the end, in the aggregate ultimate cost of the canal. The contractor makes what are known as "outside" or "running" repairs upon rolling stock, steam shovels, and locomotives. As to everything done upon the road, repairs of an ordinary character, they can best be done by the contractor upon the spot. Otherwise the Commission would have to maintain a traveling force of repair men, while the contractor has mechanics conveniently engaged upon the work, and those repairs could be made by the contractor. It is therefore provided that what is known in railroad parlance as "running" repairs, "outside" repairs, are to be made by the contractor, and they are charged up to us, and upon their cost the contractor is to derive a percentage.

Another large item of cost that under certain circumstances we decided might be turned over to the contractor is the manufacture of cement. It was estimated that there would be about four and a half million barrels of cement used down there in the construction of the locks. The question is whether we have upon the Isthmus a material which will make good cement. Some of the investigations of the chief engineer looked to the probability that we have such a material, but it is quite probable that all the cement that will be used in the construction work on the Isthmus will have to be imported, because anybody would hesitate to use what is apparently even a good cement unless it has had a practical trial of six or seven years. But if the engineers in charge of this work on behalf of the Government decide that cement can be manufactured on the Isthmus without running any great risk on the work, that business can be turned over to the contractor.

For the same reason, and to provide against exorbitant prices, and because the source of the raw material is closer to the Isthmus, it has been decided that explosives—that means dynamite—might be manufactured upon the Isthmus. Those are the only exceptions to the general rule that we furnish everything and that the contractor does the work.

It is provided that the mess houses can be taken over by the contractor. If they are taken over by the contractor, they are to be run at absolute cost. The contract prevents the contractor from making that a source of independent profit. That is so very important there, both with respect to the contentment of the men and their capacity for work, that we were careful to provide that no profit can be made from that source. Indeed, no profits can be made by the contractor from any sources outside of his percentage and outside of the premiums and rewards that he gets for better than contract performance.

Now, that issue having been settled, all these functions I have spoken of having been reserved to the Government, the question came up as to the basis of compensation. We finally decided that the percentage should be calculated upon the estimated cost of the construction of the canal, that estimated cost not being the entire cost to the United States, but rather a technical expression indicating the cost, what ought to be the reasonable cost, of the work to be done by the contractor. That estimated cost is to be fixed by a committee of five engineers of approved standing, of whom the contractor names two and of whom the Commission names three, the chief engineer of the Commission being one and acting as chairman of the special engineering committee. Within ten days after the contract is signed the contractor nominates his two men for that committee. They then, if necessary, proceed to the Isthmus and conclude an investigation of all the data, and within ninety days, if possible, at any rate within six months, they fix an estimate of the cost of completing the canal and the reasonable time of completing the canal.

Into this cost enter the current monthly bills to the contractor, that is the pay roll chiefly, and such minor hand tools and machinery as he furnishes, and such outside running repairs as he makes. He is not reimbursed for his own personal services, nor is he reimbursed for what is known as his general expenses, or organization expenses, nor for the cost of procuring his bond, nor, generally speaking, for his expenses in the United States, nor for his cable service to the Isthmus, or his legal services. He is reimbursed, however, for one-third of the cost of meeting the personal-injury claims, due to negligence at his hands or at the hands of any of his employees.

MR. WANGER. Is he reimbursed one-third or two-thirds?

MR. ROGERS. Two-thirds, I mean. That is a matter upon which I ought, perhaps, to say a word. When we originally prepared the contract, we provided that the contractor should pay all of the damages which a third person should sustain by reason of the negligence of himself or his employees, and that seemed, of course, to be a logical solution. But very quickly it developed that a great question of expediency came in there. When the contractors came to figure on what that element would amount to, they exaggerated it enormously. We knew that that really was not a substantial risk upon the Isthmus. That is due to several causes. The substantive law which prevails is the Spanish law, and under that law it has been decided by the supreme court judges on the Isthmus, corresponding to the circuit judges in the United States, that, for example, there is no cause of action in cases of wrongful death. They have also decided that where the employee violates the instructions of the master, and the servant injures a third party, the master is not liable to that third party, doing away in large measure with the doctrine of respondeat superior, as it is known in the United States. Then all those cases would be tried before experienced judges.

Our experience with the railroad company had shown that although there were a number of claims against the railroad company based upon the supposed negligent operation of the railroad company, at times an inevitable thing, the gross amount which we had to pay for those claims was extremely slight. Yet when the contractors came to take up that element they were simply frightened by the

attitude of the indemnity companies in the United States. Personal-injury claims have grown to such a large proportion, take up such a large proportion of the time of the courts in this country, and it is such a serious item with contractors that they naturally supposed it could not be less upon the Isthmus than here; and because of the uncertainty they really exaggerated it and made it more than it would be in the United States. Now, when they went to these indemnity companies they asked for from 3 to 5 per cent upon the pay roll. Inasmuch as the contractor's percentage is calculated in large part upon his pay roll, it became obvious to us that unless we made some concessions upon that point the contractors would have to put on from 2 to 4 per cent of the amount they would otherwise bid, simply to meet that uncertain element of personal-injury claims.

We were confronted with this situation: Either we had to make a concession right there and agree to reimburse the contractor upon that point, or else pay many times over what the ultimate cost would otherwise have been. We therefore decided, after many consultations upon the subject, to assume two-thirds of the cost of meeting those personal-injury claims. One-third we still entailed upon the contractor, in order that he might not be exempted from the duty of exercising ordinary care.

Secretary TAFT. You mean that he should not lack the motive.

Mr. ROGERS. Yes, sir; in order that he should not lack the motive.

Now, the amount which the contractor is to pay enters into the question of the current cost of the canal. We did provide, however, that the engineering committee should make no allowance for that in estimating the cost, and also that they should make no allowance, in estimating the cost, for contingencies. Those who have figured on the cost have added as much as 20 per cent for contingencies. Some have figured it higher. In preparing the contract the design was to reduce the element of contingency as far as possible, and therefore we put in the contract the provision that the engineering committee should not enlarge the apparent cost of the work to the contractor by the element of contingency nor for damages from loss sustained by the contractor on his own personal account.

We thought, in calculating the percentage upon the estimated cost, that it would have a tendency also to prevent the contractor from swelling the cost of the work. If he is paid 7 per cent, he would not have quite so much incentive to keep the cost of work down as he would if he were paid on the estimated cost.

If the contractor can keep the work up to the estimate of time for completion of the canal he will make a larger profit than if he exceeds the limit of time. If he exceeds the estimate of cost half a million dollars he forfeits one-half of 1 per cent. To illustrate, the lowest bid was 6.75. If the contract be awarded on that basis and the cost should exceed the estimated cost by \$10,000,000, that would reduce his percentage to 5.75.

Mr. BARTLETT. That would be 1 per cent?

Mr. ROGERS. Yes. Upon the other hand, if he succeeds in improving on the estimate of the cost, he would get one-third. If he does the work in less than the estimated time, he gets a bonus of \$100,000 a month; if in more, he would pay liquidated damages of \$100,000 a month.

Mr. SHONTS. The interest charge is large.

Mr. ROGERS. I was going to state, as Mr. Shonts has often stated to the contractors, that the general idea of the contract was to make a quasi partnership between the Government and the contractor, so that they would have an incentive for cooperation, as both were sharers in the profit. If the contractor and the Government work together and succeed in having the cost fall below the estimate, the Government would save two dollars where the contractor would save one. If, on the other hand, the contractor succeeded in making the time for the completion of the canal fall below the estimated time, the Government would save more than the \$100,000 bonus paid the contractor. The Government would be paying by that time from \$2,000,000 to \$3,000,000 a year interest on bonds, which would be issued to pay the cost of construction. Then the great strategical and commercial questions which affect the people of the United States have to be considered in the matter, particularly as to the time of completion. That is always a great inducement to the Government to get the contractor to cooperate in completing the work as soon as possible at the minimum cost.

We have provided that the contractor shall proceed with the work as quickly as possible—sixty days is named—and we have provided an arrangement by which if he does not get to work before the estimates are completed a certain allowance is made to the Government.

Mr. BURKE. State what guaranty the Government has that the contract will be performed and what the risk is.

Mr. ROGERS. The contractor is required to have a capital of \$5,000,000. The bond is to be \$2,000,000. Two million dollars of the \$5,000,000 is for the purpose of raising this bond. Two million dollars can be devoted to that purpose, and the remainder is to be paid in cash or to be in solvent subscriptions, so that it may be available to the contractor. One million five hundred thousand dollars must be raised in cash, and the rest must be where it can be called in. That provides for the faithful performance of the contract. The Government is protected by that provision. It also requires the contractor to do the work in a good and satisfactory manner. If there is negligence it constitutes a breach of the contract. It is also provided, for instance, that if the contractor should put in any unsound material he shall be responsible for the damage caused thereby unless he serves notice, which the contract requires him to do, on the chief engineer to specifically approve the materials, in which case he would be exonerated. He is responsible for his own negligence and for the negligence of his servants. He is required to discharge at any time any employee upon notice of the chief engineer. He is bound by certain other covenants to comply with the rules and the regulations in respect to sanitation, and he must make effective rules of his own for carrying out the Government rules.

Mr. ESCH. What right has the Government with reference to the labor to be employed?

Mr. ROGERS. The character of the labor is left with the contractor. If any individual or any large number of individuals shall interfere or become hostile to the work of the Government, the Government is protected by authority to require the contractor to discharge him or them. In the selection of labor, as well as in the control of labor, the contractor necessarily has to have a free hand.

Secretary TAFT. The contractor is required to follow the law?

Mr. ROGERS. Yes.

Mr. MANN. What is the contractor to do? What is his business?

Mr. ROGERS. The contractor actually builds the canal. He excavates the Culebra Cut and hauls the material to the dump and puts it onto the dump. He builds sustaining walls or revetments. He dredges the canal throughout its whole length. In order to do that construction work he employs all the labor necessary.

Mr. WANGER. He operates the locomotives that run the work trains?

Mr. ROGERS. Yes; he operates the locomotives and the scows.

Mr. MANN. He does practically what a foreman would do.

Mr. ROGERS. It is done under the plans and specifications of the chief engineer.

Mr. ADAMS. You pay the pay roll?

Mr. ROGERS. He pays the pay roll. On the 15th of the next month we return him the money.

Mr. ADAMS. Then you pay them?

Mr. ROGERS. We pay them ultimately. No contractor could work there under any other arrangement.

Mr. STEVENS. What becomes of the present personnel?

Mr. ROGERS. As I stated a moment ago, we retain a great many functions down there. The present personnel will be retained so far as necessary. The personnel connected with the construction work will be taken by the contractor. For their protection it is provided that the contractor shall not discharge them or reduce salaries except with the consent of the chief engineer. That is called the gold roll. As to the common employees, he will take them.

Mr. STEVENS. Would not that tend to increase the cost?

Mr. ROGERS. No. A great many contractors have expressed themselves as satisfied with that provision. They take the view that a good many men who had gone down there and stayed for years had become experts in the work, and that they would be glad to get the benefit of their services. No contractor with whom I have talked objects to it.

Mr. MANN. You say the contractor does the work. He takes the force you have there, and he will assemble an additional force, but does he do more than the Government engineer does there now?

Mr. ROGERS. He does not do any more than the chief engineer does, except that he contracts for the work which the present chief engineer does.

Mr. MANN. Would you still have to retain the chief engineer to watch the contractor?

Mr. ROGERS. Undoubtedly. The chief engineer is the arbitrator on all questions.

Mr. MANN. So that he would have to have a considerable number of men under him all the time to see and know what was going on?

Mr. ROGERS. Yes; but it does not seem to me that as large a force would be required as if he did the work himself; it would not be anything like so large.

Mr. MANN. Would not double the force be required? Would he not have to watch and see that the work was done with care, and does it not add to the total number of men employed?

Mr. ROGERS. I think not. A large portion of the work, sanitation

and maintenance of the plant, for example, would still be done by the chief engineer. He regulates his force in proportion to the amount of work to be done.

Mr. MANN. Do you think that the force necessary for sanitation can be used there for many years?

Mr. ROGERS. No; but the force of the chief engineer has charge of the purchase of supplies, of the shops in which the plant is repaired, of the assembling of the plant, and things of that sort. Of course, under the contract, he would furnish the plans and specifications. He is bound to do that under the contract. We would have to do that ourselves if the work was being done by direct labor. His force is retained for this special purpose; he has to discharge the duty of inspector and exercise a control over the contract.

Mr. MANN. Is there anything the contractor will have to do in addition to the work the Government engineer now does?

Mr. ROGERS. No, sir. The contractor simply does the work that we do there now, and which we will have to do if we do it by direct labor.

Mr. MANN. Will the contract be performed under the eight-hour law?

Secretary TAFT. The eight-hour law does not apply on the Isthmus. It is a public work.

Mr. WANGER. The contract provides for that by law.

Secretary TAFT. It says that it shall be governed by the laws which govern work on the Isthmus that is under the Government.

Mr. MANN. That is a recent construction?

Secretary TAFT. No; it is not a recent construction; it is the same as it always has been.

Mr. STEVENS. Who decides the type of machinery of which the contractor takes control?

Mr. ROGERS. That is decided by the chief engineer. That is a question about which we had a great many conferences. The contractor wanted to decide that. We thought that the Government had an expensive plant there, and we did not feel like letting it be subject to the caprice of the contractor. No method could be adopted by which this responsibility could be divided. With respect to the other facilities to be supplied by the Government, the judgment of the chief engineer is final; but the contractor has an assurance under the contract that we will furnish him the things necessary to enable him to perform his contract.

Mr. STEVENS. But that means that there may be a claim against the Government.

Mr. ROGERS. That is left in the hands of the chief engineer.

Mr. RICHARDSON. What provision is made in the contract for the use of the Panama Railroad?

Mr. ROGERS. The contractor does not take over the Panama Railroad. He has no control over the organization of the Panama Railroad. We simply furnish him trackage to and from the dumping grounds.

Mr. RICHARDSON. He gets that in addition to his other facilities?

Mr. ROGERS. That is one of his facilities.

Mr. WANGER. Have any contractors complained of the character of the plant there now?

Mr. ROGERS. No; I think that most of the contractors expressed themselves as satisfied with the plant. It is not yet complete. It must be added to.

Mr. WANGER. Have any considerable number of persons stated that it would be cheaper to abandon the shovel and take to the dredge for general excavation work?

Secretary TAFT. One man has—Mr. Bunau-Varilla.

Mr. WAGNER. Mr. Bates also, I think, strongly urges it.

Mr. ROGERS. I do not see how we could use the dredge in certain parts of that work.

Mr. WANGER. Has any other contractor besides Mr. Bates suggested that?

Mr. ROGERS. None who have appeared as constructive bidders, and they include the bulk of the prominent contractors in the country.

Mr. MANN. In figuring on the contract did you figure on the limit of cost?

Mr. ROGERS. We made no preliminary estimates.

Mr. MANN. I mean the limit of cost fixed by Congress—\$145,000,000.

Mr. STEVENS. Suppose it should turn out, in making the estimate, that the estimate of cost should exceed \$145,000,000, what would you do then—stop?

Mr. ROGERS. That is a question we have considered. There have been some decisions which authorize us to enter into a contract, although Congress has fixed the price. If a contract is entered into and the exact cost can not be ascertained, it should hold, if it is entered into in good faith, just the same.

Mr. MANN. The Comptroller, as I understand it, has ruled that the money can not be paid and the contract can not be proceeded with unless there is a limit of cost. I want to know whether you have taken that into consideration. You are not authorized to spend the money yet.

Mr. ROGERS. I think that it has been decided in cases where work has been entered into, if at the time the contract was entered into it was not apparent that it would exceed the appropriation, it would be valid.

Mr. ADAMS. You take into cognizance the elastic power of Congress?

Mr. ROGERS. Yes. So much will still be done by the Government by direct labor that I think that there is very little prospect that the cost of the work to be done by contract may exceed \$145,000,000.

Mr. BURKE. Has the Commission made an estimate as to the portion of the whole contract the contractor is to get a commission upon?

Mr. ROGERS. The Commission has never made an estimate of that. I do not think that any contractor made any which furnished an estimate of what the total cost would be under the contract.

Mr. LOVERING. What provision is made for settlement between the contractor and the Government outside of the decision of the Board?

Mr. ROGERS. When the question of preparing the contract first came up there was considerable pressure brought to bear to introduce what is known as an "arbitration clause." We talked to quite a number of contractors on that point, and they did not attach much importance to it. It simply interposes a step which is to be gotten over before the parties can go into court. Most of the contractors

were satisfied with the arrangement whereby questions should be settled in the first place by the chief engineer. Either party might appeal to the chairman, and over and above that is was always understood that there would ultimately be an appeal to the President, and, of course, to Congress itself.

Mr. BURKE. It will follow that there are likely to be delays on the part of the Government by reason of failure to furnish material, and also plans and specifications will be changed from time to time, necessitating more time than would be taken if the plans and specifications were followed as estimated upon originally by the Commission. How are you going to get around these matters?

Mr. ROGERS. That brings up the question of the completion of the canal, and I was about to make a statement with reference to that. The contract specifically provides that if there is a change in the plans and specifications the estimates of time and cost shall be re-modeled to conform to the changes. At the present time the committee is in a better position to pass upon the question of cost. The general type of the canal is fairly well settled. The engineering work is brought up to date, and the character of the material to be removed and the stuff to be dredged is all fairly well settled, so that an estimate can be made, and it will be still better settled by further investigations that the engineering committee is authorized to make. We think that they will be able to make a fairly approximate estimate. It will not be exactly correct, and many things may intervene which may, in justice to either side, require a modification of the estimates. We provide in the contract how the estimates of cost and time can be modified. We provide a general plan whereby the estimates can be modified in the event of a change in the actual scale of wage, when it falls below or exceeds that taken into account by the committee in making their original estimates. We also provide for changes in the estimates where an act of God or a public enemy, or a mistake in physical data upon which the engineers make their estimates, intervene. We thought that those were equitable grounds upon which the contractor might appeal to the President of the United States for a revision, and so provide.

Mr. MANN. Can the Government also appeal to the President?

Mr. ROGERS. Yes; especially in view of the fact that the estimates might be affected by the annual average scale wage.

Mr. MANN. It is evident that the engineers will try to get as high a cost as possible.

Mr. ROGERS. It is difficult for the Government to provide against infidelity on their part.

Mr. MANN. I do not mean infidelity. It is like selecting expert witnesses.

Mr. ROGERS. In the first place we provide for two engineers, who shall be men of approved standing in their profession, and I do not think that any man except one of standing will be accepted.

Mr. MANN. We have had many down there and each one was supposed to be of high standing. They are not all perfect.

Mr. ROGERS. Those engineers had to discharge different duties from those of the present engineering committee. They had to consider broad, general matters of design, and things of that sort. They had to consider questions of climate and health conditions.

Mr. MANN. We had several commissions go down there, and nearly

all had the data which you have now, and on a broad, general proposition they had opportunities of estimating the cost of doing the work, but none of them agreed. Each new set made the work of the other set faulty.

Mr. ROGERS. We have had two years' experience in construction. We have made borings, and the character of the material is more definitely settled. The quantity is settled. In all of the estimates heretofore made the variations largely have been due to the variations in the size and type of the canal. The prism of the canal is fairly well settled by the plans and specifications. The Government has three engineers and the contractor has two.

Mr. MANN. I do not think that it is possible for anybody to know or make a careful estimate of the cost.

Mr. ROGERS. It is inevitable that there will be changes and constant departures from plans and specifications, particularly with reference to locks and dams.

Mr. MANN. What protection will the Government have? You say that it is left to Mr. Stevens, the chief engineer, to decide. Is it fixed that no claim can arise against the Government in the courts or in Congress?

Mr. ROGERS. Absolutely. I think that the contract provides for a change in the plans and specifications, and it is done in such a way that it will avoid litigation. If the plans and specifications are changed the engineering committee are authorized to make a change in the other part of the contract, as to the time of completing the canal, etc.

Mr. BURKE. I think you ought to state how the Government can terminate the contract, if it desires to do so.

Mr. ROGERS. That is an important question, and brings up for consideration one of the most important provisions of the contract for the protection of the Government. Of course, the contract can be terminated upon breach by the contractor. If he neglects to progress with the work so that it seems that he will not be able to come within 20 per cent of the estimated cost, that is a breach. If he fails to employ a force of workmen which can be conveniently employed, that is a breach. If he gets into financial difficulties and becomes insolvent, that is a breach.

Further than that, we have also provided that there may be a voluntary termination of this contract by the Government, even where there is no definite breach. A contractor might go down there and dally with the work and carry it on laxly, and still keep within the limits of his legal rights, or, the Government might wish to terminate the work for some reason. We can not tell what will be done by future Congresses. In that event we have provided that the Government may take over the work on terms by paying the contractor \$250,000 bonus. If less than one-third of the work has been done, the contractor gets an additional 1 per cent on the work done. It is also provided that the contractor must get at least a half million dollars, because the expense of organizing would be very heavy. Apart from that we can practically terminate the contract by the payment of \$250,000.

Mr. ESCH. Liquidated damages?

Mr. ROGERS. Practically. Of course, the time fixed by the contractor is an incentive to do as much as he can from the very

first. We also provide that at the end of each year the chief engineer may make investigation to ascertain whether the contractor has properly kept abreast of the work in point of time and cost; and if so we provide that the contractor shall be paid two-thirds of his percentage on the estimate of cost for that year. If he is behind he gets no percentage.

Mr. MANN. You spoke of the matter of personal injuries, where the Government assumes two-thirds the cost of personal injuries. Does that rest with the contractor to settle for personal-injury claims?

Mr. ROGERS. Yes; it rests with the contractor, but it is like any other right; it must have the approval of the chief engineer.

Mr. MANN. Have you any question as to your authority to make a contract of that kind?

Mr. ROGERS. No. It was inserted in the contract, so that it becomes a part of the compensation paid to the contractor; and the courts for that reason, I think, would hold it valid.

Mr. MANN. The Government not being responsible for the personal injury, and you not having authority to enter into a contract for the building of the canal at a price above \$145,000,000, by making a contract of that sort you can void that. Suppose we should have a new Secretary of War—which I hope will be a long time off—and the new Secretary should conclude that he would void all the limitation, as it is done in river and harbor improvements where they make contracts without regard to the limitation of the river and harbor appropriations, or public buildings, do you think that the Department would have that authority?

Mr. ROGERS. I do not mean to say that we would sit down—I am sure that that is furthest from the design of the Commission—and prepare a contract which on its face would depart from the wishes of Congress expressed in appropriation bills; but what I meant to say was that we could not assume that the cost might exceed \$145,000,000.

Mr. MANN. Suppose that you are authorized to enter in to a contract for a public building, and the Secretary of the Treasury adopts the same system as you do, and says you can not do it on account of the cost.

Mr. ROGERS. That is a question, of course. I was about to state that at the outset. That is one of the risks the contractor takes as much as any one else.

Mr. MANN. It seems to me that it is a risk of the Government.

Mr. ROGERS. If appropriations were not made before the completion of the contract, the work would stop.

Mr. MANN. I mean, would the Department walk around the act of Congress instead of going through it?

Mr. ROGERS. We are not trying to do that.

Secretary TAFT. I do not think that there is any limitation on the part of the President to make a contract. According to the Spooner Act the obligation is mandatory. He is required to do it. There is no mention of the kind of contract he shall make. I am not discussing the wisdom of it. If you read the whole act you will find that the mandatory feature on the President is one of the chief characteristics. The provision is that the contract shall not exceed \$135,000,000.

Mr. MANN. One hundred and thirty million dollars, and \$10,000,000 in cash, and \$5,000,000 in the future

Secretary TAFT. Whatever that limitation is, the provision is that he may be paid under the contract from time to time as appropriations are made.

Mr. MANN. I think that the estimate on the pay roll will exceed the \$145,000,000, but I hope not.

Mr. STEVENS. Suppose it does?

Secretary TAFT. Then I should favor it.

Mr. MANN. It is a plain limitation.

Secretary TAFT. On what?

Mr. MANN. On the authority of the President.

Secretary TAFT. On the appropriations of Congress.

Mr. MANN. You can not limit Congress.

Secretary TAFT. It says, "as appropriations shall from time to time be made hereafter."

Mr. MANN. That is the usual form of limitation on the authority of the Executive Departments to expend money and make a limit on entering into contracts exceeding the amount of money appropriated. An unfavorable Comptroller might give you an adverse decision on that.

Mr. BURKE. I think that Mr. Mann is discussing the necessity of increasing the limitation; he does not want to stop the building of the canal.

Mr. MANN. Certainly not.

Mr. BURKE. We are going to construct it no matter what the cost.

Mr. BARTLETT. In what way do you pay personal-injury claims now?

Secretary TAFT. We do not pay them except upon the railroad. That being a private corporation, we do that through that instrumentality.

Mr. BARTLETT. What authority of law under that act, or under any law, have you to pay any personal injury, there being no law for personal injury?

Secretary TAFT. It is only on the theory that the provision refers to the cost of construction, which necessarily includes the cost of the payment of damages of that sort made by a contractor. Every contractor who goes into a work of this kind must calculate upon that. Mr. Root and I discussed it, and we advocated the inclusion of that element of two-thirds of that cost for the purpose of avoiding the necessity of increasing the pay of the contractor.

Mr. BARTLETT. You estimate that two-thirds of the cost would not be as great as the difference in the percentage would be if the contractor was obliged to pay under the liability incurred by reason of damage suits?

Secretary TAFT. Nothing like it.

Mr. BARTLETT. You stated the other day—and I think that Mr. Rogers also stated—that the percentage would be increased materially on account of the high rates of indemnity being charged, and that the Government would ultimately have to pay those rates.

Secretary TAFT. There is a distinction with reference to the fidelity companies which it is well to settle at the outset. They wanted as high as 5 per cent of the pay roll for that element of cost. We knew

from our experience that it would exceed a very small part of 1 per cent.

Mr. MANN. You put your experience against the indemnity company who have had experience.

Secretary TAFT. Yes; we have had more experience in this work on the Isthmus than they.

Mr. MANN. Do you think that they would make bids without knowing the conditions there, or without having any knowledge of the history of the French or the Americans?

Secretary TAFT. I think they do.

Mr. RYAN. Why is insurance there any greater than it is in big works in this country?

Secretary TAFT. The conditions are little understood the more miles you get beyond the limits of the United States.

Mr. RYAN. It is not due to climatic conditions?

Secretary TAFT. No. It is based on the theory which controls in this country.

Mr. LOVERING. Are not the laws more stringent here than there?

Secretary TAFT. If you mean more stringent in the sense of greater probability of recovery against a corporation, I would say yes.

Mr. RICHARDSON. Mr. Rogers stated that facilities were provided for the contractor's use of the Panama Railroad.

Secretary TAFT. Yes.

Mr. RICHARDSON. Who controls the Panama Railroad Company? The Commission, does it not?

Secretary TAFT. Yes; absolutely. It does to-day. It always has since we got it.

Mr. RICHARDSON. The Government owns all the stock in that road?

Secretary TAFT. Yes; and every director on that board votes the way we wish him to vote, and if he does not he goes out. We have power of attorney to cease his functions.

Mr. ESCH. That is Government ownership "and" control.

Secretary TAFT. If we do not control that railroad, I do not know what we do control. It is an admirable arrangement.

Mr. MANN. Would it be convenient for you to furnish us with a statement of the amount of excavation per month on the Isthmus during the last few months and the number of dredges at work?

Mr. ROGERS. Yes; that can be furnished in detail.

Secretary TAFT. It is interesting to know that the work is increasing in a most gratifying way. In January the excavation amounted to 566,000 cubic yards, which is more than double the amount taken out since the beginning of the work, even under the French.

Mr. MANN. It is not double the amount the French took out?

Secretary TAFT. That is what Mr. Stevens says.

Mr. MANN. I think that Mr. Stevens is mistaken.

Mr. SHONTS. The French companies were not limited to excavation in Culebra. The bulk of their work was in dredging. The quantity of our excavation at Culebra is double what it was at any other time.

Mr. RYAN. In regard to the liability matter, is there any record of accidents kept on the Isthmus other than those of employees of the railroad?

Secretary TAFT. We have records of the injuries as to each one.

We can tell only by the damages claimed and which the railroad allowed.

If I may be permitted, at the risk or chance of repetition, I would like to go over some of the points that were raised here by questions that Mr. Rogers has answered fully, but which, perhaps, reiteration may make a little plainer. The arbitrary cancellation of the contract, as Mr. Rogers said, is one feature that the contractors look upon with hesitation, as properly they might, and as do some of them, at least, with whom I have discussed the matter. It involves a penalty of \$250,000 on the part of the Government. We have the right to inflict it or impose it, conditioned also on the fact that the amount of premium or percentage which the contractor shall receive shall equal \$500,000; which, assuming that the contractor would spend and the Government would reimburse him to the extent of \$10,000,000 a year, would easily be earned in one year; and also if the work is only one-third done, or not one-third done, he is to receive 1 per cent more than the bid. That is the contract made by Oliver and associates. If he would serve for a year, and then if the thing should fail, it was better in the interest of the Government to terminate the contract. Assuming that he would do seven or eight millions the first year, he would receive under that percentage over \$500,000. He would be paid what he had expended month by month by the Government, and he would receive in addition \$250,000.

Mr. WANGER. In that contingency the percentage would be upon his expenditures or upon the estimate for that part?

Secretary TAFT. It would be upon the proportionate part of the work done as estimated by the chief engineer; but that would probably be regulated largely by his expenditures, if it took place in the first year, because the calculation as to the actual proportion of that estimate would be less certain and accurate than if more work had been done.

Mr. RICHARDSON. Does not that follow, generally, in customary contracts for building railroads and things of that kind?

Secretary TAFT. It does in that respect, except the estimates usually include the actual outlay. Yes, I suppose it does assimilate itself to that. They usually retain 10 per cent for contingencies.

Mr. RICHARDSON. In other words, there was not anything very extraordinary or mysterious about the contract you have made over there?

Secretary TAFT. No, sir. Speaking generally about the contract, to come again to details that have been mentioned, Mr. Mann asked what the contractor did under this contract, and it is a very natural question to ask. But this contract, while differing from contracts known as percentage contracts in certain respects, especially with reference to estimates, is quite like them in what the contractor does, except that the contractor usually gets his percentage upon the material put in as well as upon the pay roll. Here he gets practically only a percentage upon pay roll. But these percentage contracts, which are now quite general, I am told, involve the work by the contractor really as the agent or a kind of partner of the proprietor, who pays the bills.

Mr. STEVENS. Mr. Secretary, right there, does not that require a double inspection force? Mr. Rogers gave a number of instances

where the Government would have the right to cancel the contract when the work was not done in a workmanlike manner, and so forth. Must you not have about the same inspection force under those circumstances as if you did the work yourselves?

Secretary TAFT. You would have about the same inspection force that you now have. In other words, you would have to inspect your own work just as you would inspect the work of the contractor.

Mr. STEVENS. That would be practically the same?

Secretary TAFT. Yes. It would make little difference, so far as the cost is concerned. The great object of the private contract, and of this private contract as well as any other, is that we shall secure, on the part of the person who has a pecuniary motive in it and a knowledge of how to reduce expenses, that very powerful motive of making money out of the contract, which I think we all concede—at least most of us concede—is a more powerful motive than that of earning the gratitude of the Republic and doing your work as a public servant ought to; not that the public servant does not do his work, but that he does not have that same pressure on him as arises from the prospect of earning a very considerable sum of money by making a good profit on the contract.

Mr. STEVENS. In other words, you can drive your men harder and discharge them more easily?

Secretary TAFT. Yes, sir; and sentiment plays but little part in the retention or discharge of employees, or any other matters that affect the cost of the work.

Mr. ESCH. Under the contract plan can you reduce the number of engineers of the Government?

Secretary TAFT. Oh, yes.

Mr. ESCH. I mean, will you be able to reduce the number under the contract plan?

Secretary TAFT. It depends on what the engineers do. If the engineers are engaged in making plans and specifications, I think not. If they are engaged in the actual superintendence of the work itself, I think you might.

Mr. BURKE. Mr. Secretary, how are the accounts of the Commission paid at present? How are they audited?

Secretary TAFT. They are twice audited. They are audited by the auditor of the Commission, who has a subordinate on the Isthmus, and then they are audited by the War Department under the law.

Mr. BURKE. If this contract were made, would the Commission audit each item of expense that the contractor would incur, and would it change in any way the system of payment and auditing from the present system?

Secretary TAFT. It might somewhat reduce the necessity for the same amount of auditing. The disbursement, which is not a part of the auditing department, would become very much smaller in detail for the Government—

Mr. BURKE. That is what I am asking about—

Secretary TAFT. Because the disbursing officers of the Government now have to pay the individuals. Then all that would have to be done would be to audit the accounts of the contractor and pay to the contractor a lump sum. That would reduce the number of persons considerably that are now needed in the disbursing office, and I hope we might reduce the auditing system. That might be done anyway—

that is, when we transfer control of the whole matter to the Isthmus, subject to a very general supervision from here. I am hopeful that we may be able to dispense with a great deal of auditing at this point and have only monthly reports sent here.

Mr. BURKE. The purchase of material and machinery is entirely by the Government?

Secretary TAFT. Yes; except the small tools.

Mr. BURKE. There is no way that a contractor can derive any benefit by reason of the purchase of the machinery?

Secretary TAFT. No, sir.

Mr. BURKE. That is done by the Government through the purchasing agent of the Commission?

Secretary TAFT. Yes. Ordinarily a percentage on the purchase of material or machinery is calculated to the contractor, on both the machinery and the materials.

Mr. RYAN. What do you mean by small tools?

Secretary TAFT. I should say that hand tools would describe them.

Mr. ESCH. Under the contract plan will the duties, responsibilities, and prestige of the chief engineer be increased or diminished?

Secretary TAFT. Well, in executive work, in initiation, in the pushing of the work, I think the engineer's work would be reduced somewhat; but probably in the care and supervision, and in the naturally friendly antagonism, as I hope, that will develop between the engineer and the contractor, I think the engineer's work will be increased.

Mr. ADAMSON. The dignity of the position is what the question is aimed at. Will that be impaired at all?

Secretary TAFT. Not in the slightest.

Mr. MANN. Will the salary be enlarged or decreased if the responsibilities are decreased?

Secretary TAFT. I do not think the responsibilities will be decreased.

Mr. MANN. Taking away the responsibility for the work will not decrease it?

Secretary TAFT. I do not think so.

Mr. ESCH. He has the responsibility of the work——

Mr. MANN. What is the contractor to do if our people have the same responsibility and exercise the same jurisdiction as they do now? What does the contractor have to do then?

Secretary TAFT. The contractor has the motive—the initiative. He has the pushing of the work. The engineer has to watch the contractor and see that he is complying with the obligations of the contract, and he has the very great responsibility of deciding questions that will be constantly arising between the contractor and the Government. He has to keep a force which shall watch the work and all as closely as before. I can not see that, while the nature of his duties are somewhat changed, the responsibility is any the less.

Mr. MANN. Mr. Secretary, are you in favor of this proposition?

Secretary TAFT. You mean this contract?

Mr. MANN. Of this system. I do not mean——

Secretary TAFT. I am, as the contract is stated and as the purpose of it is stated in the bids, if we can get and if we now have contractors and a syndicate of contractors whose experience covers the whole field of the work, so that they are able to bring their organiza-

tion down there, their chief men, their engineers, their skilled pushers of labor, I think they can do the work more efficiently and more expeditiously than we can. But I do not think, if we do not get that character of contractors, that we ought to go into that contract.

Mr. MANN. They will not be hampered by the President's order as to appointments under the civil service?

Secretary TAFT. No, sir. The present engineer is not. That has been abrogated so far as all men engaged on the work are concerned, and it is contemplated to withdraw it as to all clerical work on the Isthmus as well.

Mr. MANN. Then they will not be hampered by the Isthmian Canal Commission in the employments as they are now—as the engineer is now?

Secretary TAFT. I can not say that he is hampered in any way, because if the engineer asks an employment he gets it, and if he directs any particular employment he gets it.

Mr. MANN. I know men in my town who wanted to go down there who got so disgusted with the Isthmian Canal Commission and with the information they got out of them that they threw up their hands in disgust.

Secretary TAFT. Mr. Mann, in that question I would take issue with you flatly, because I see the telegrams that come to the Commission and the telegrams that go from them, and the engineer has never been hampered as to anyone he wants to go down there. If the engineer requests a particular person to be sent down there, he is sent, and there is no limitation as to whom he shall send.

Mr. MANN. Unless there is an inside push that prevents it, that gets to the engineer. He does not know everybody, you know.

Secretary TAFT. No, sir; the Commission is here for the very purpose of sending such men as they can get.

Mr. MANN. If you make application to the Commission, you might as well throw it out in the—

Secretary TAFT. No; I take issue with you on that.

Mr. MANN. I know what I am talking about.

Secretary TAFT. No; I do not think you do. I am not the man who sees things as they go in the detail, since Mr. Shonts is; but Mr. Shonts will tell you that he himself and the engineer in the employment of men are anxious, and that the Commission is only too anxious, to get men fitted to send down there.

Mr. SHONTS. Let me tell you just how that is. The chief engineer appoints, himself, through experts, and every man that wants a job is requested to go before the chief of engineer's own experts for examination, and his own experts make up the list from which all applications on the Isthmus are filled, and there has never been a deviation from it.

Mr. MANN. I have had too many men that I know of write to make application, and actually making application to the Isthmian Canal Commission's experts, who received no consideration and no information whatever.

Secretary TAFT. The difficulty about your information is that you derive it from your applicants.

Mr. MANN. No; I derived it from the Isthmian Canal Commission.

Secretary TAFT. If you make investigation, I am sure you will

find that the earnest desire of the engineer and of the Commission is to get men that are fitted, and that if a man comes and shows that he is fitted he is given the place with great pleasure.

Mr. RYAN. Where are these experts that you speak of—

Mr. MANN. Tell us how an expert can obtain a position there.

Mr. RYAN. I know there is some fellow over in New York, and that if you can get next to him you can get a position. [Laughter.]

Secretary TAFT. I do not think that is true. I want to protest against that.

Mr. MANN. Mr. Secretary, it is hard for the king to hear the truth, you know.

Secretary TAFT. I am not the king. Shonts is the king. But I have an opportunity for knowing about the effort that is made, and I want to say, with all due deference, that the last persons who are able to testify from reliable information as to the means taken for selecting good men on the Isthmus are the Congressmen who are called upon by their constituents to secure positions for their constituents.

Mr. MANN. We have long ago discovered that that is substantially the opinion of the head of every Executive Department; but it is not true, nevertheless.

Secretary TAFT. I think it is true.

Mr. MANN. All administrative officers think that a recommendation from a Member of Congress is detrimental rather than beneficial to the candidate.

Secretary TAFT. No. On the contrary I venture to say that no Member of Congress in my presence, in this session here, will say that he has not received, when he comes to the War Department, proper consideration for the persons whom he recommends.

Mr. RICHARDSON. I take great pleasure, Mr. Secretary, in referring to one incident in that line. Even in the important matter of selecting a judicial officer I called upon you, and you gave me the most attentive hearing and the most gracious consideration that one could ask for.

Secretary TAFT. I do not want to be misunderstood, gentlemen. Of course you will acquit me of desiring in any way to reflect on Members of Congress, with whom I have always kept in harmony. What I want to say is that it is very difficult for Members of Congress to appreciate the operations and workings of a great enterprise like this, where so many employees have to be taken on, and where necessarily every application that comes has to take a certain course. For instance, if Mr. Mann should come to me and say, "This man is a good man, and I have had personal observation of his qualifications as an engineer and of the work he has done," and everything of that sort, I will transmit that information, if it comes in a form in which I can transmit it, to the chairman of the Isthmian Canal Commission—

Mr. MANN. It has never come to you in that form. I never recommended anybody to any job under you, and I never expect to.

Secretary TAFT. The course would be that it would go to the chairman of the Isthmian Canal Commission, and he would send it to Mr. Stevens for conference, and to the experts whom Mr. Stevens recommends for the selection. There are constant appeals from the Isthmus for one class of men and another class of men that he desires.

and those are referred to the Isthmian Canal Commission, and they go to the list of eligibles that they have, and the man is recommended.

Mr. BURKE. I would like to ask you if you have had any trouble in getting the experts that you want from time to time in this work to go to the Isthmus?

Secretary TAFT. We had.

Mr. BURKE. You have trouble in getting them?

Secretary TAFT. Yes. I think the trouble is being gradually dissipated, however. In the first instance, I think we had great difficulty. But I should like to say again, so that I am not misunderstood, that I know how it is myself in recommending people. I know I had this presented to me when I was governor of the Philippines. I was familiar with a great many military officers in the Philippines and with their qualifications for promotion, and I wrote many recommendations; but I found when I got to the War Department that a good many of those letters that I had sent in recommending people when I was governor in the Philippines could not be considered as controlling my action when I had to take a new responsibility here with reference to their selection, and I wiped those letters of recommendation right out, not because I had not said at the time what I really believed as to the propriety of selections, but because when it came to the actual selection I was obliged to cover the whole field and look not only on those in whose favor I had made recommendations, but I had to take into consideration all the other competitors for the places. And so I think it is with the Congressman when he makes a recommendation. He is naturally interested in the persons who come to him and who are his constituents. It is right that he should be.

Mr. MANN. You assume that, Mr. Secretary.

Secretary TAFT. I only assume that he is governed by the same considerations that govern me.

Mr. MANN. I never recommended a man to the Isthmian Canal Commission in which I had the slightest interest whatever. When the Commission was first organized I advised a number of gentlemen in Chicago who were experts in their line to apply for positions at Panama, because I thought their service would be good for the country. But I do not think any of them ever received any satisfaction in any shape or manner from the Isthmian Canal Commission, or from anybody else connected with the canal. I thought it was gross neglect on the part of somebody, owing, perhaps, to lack of proper administration.

Secretary TAFT. If I had a specific statement of that I would try to run it down. But such a general statement as that is very difficult to meet unless it is specified. If you will give me the names I will try to find out the reasons why they were not accepted.

Mr. WANGER. I want to say that in the few instances in which I gave the same advice to my constituents in every case I was told that they had received communications from the Commission. My constituents' experiences seem to have been contrary to that of Mr. Mann's.

Secretary TAFT. My only recollection, Mr. Mann, of a recommendation from you was that of a man for official photographer.

Mr. MANN. I remember of none except a man who went down with us on the trip as photographer.

Mr. RICHARDSON. I would like to find out——

Mr. RYAN. I have never had any trouble with men in my district not receiving consideration.

Mr. ADAMSON. It is, of course, owing to their superior qualifications that the experts in my country have received justice there. [Laughter.]

Mr. MANN. I will bet there is not a man in your district that has been appointed to any expert position at Panama.

Mr. ADAMSON. One of the best engineers there is a gentleman from my district.

Mr. RICHARDSON. I have always received the utmost consideration at the hands of the Secretary and the Canal Commission.

Secretary TAFT. I must protest against the proposition of my brother Mann that because a Congressman recommends a man that is a reason for turning him down.

Mr. MANN. I long ago discovered that if I wanted to get a man into a position I must refrain from recommending him. I think that is the frequent experience.

Mr. RICHARDSON. I would be very glad if you would explain to me or the committee in what manner the Commission, which has control of the Panama Railroad, is influenced or controlled by the principles of the charter granted by the State of New York incorporating the Panama Railroad many years ago.

Secretary TAFT. With reference to the Panama Railroad, it is a private corporation in one sense, created by charter by the State of New York for the conduct of the business of a common carrier on the Isthmus. It is authorized under its charter also to carry on a steamship business in connection with that line if it deems it wise, and it was deemed wise by that corporation to do that before the Government became interested in it. With the purchase of the property of the New French Panama Canal Company there was included upward of about 68,000 shares out of 70,000 shares of the Panama Railroad Company, and those shares were subsequently acquired by the Government, and so they are all owned by the Government.

Mr. BARTLETT. Acquired by condemnation?

Secretary TAFT. No; by purchase. In order that it should be carried on as an entity at all, we had to have the form of a board of directors, and that we have; and we provided that form by selling a share to each of the twelve—I think it is twelve directors—and that share of stock is evidenced by a certificate which is indorsed in blank by the director who receives it with a power of attorney to the Secretary of War to take over that share again to the Government on the deposit of the money which before that had been paid by the director for the share, and the certificate is retained as security for the performance of that contract by the Secretary of War.

Mr. RICHARDSON. Is that the reason why the provisions of the charter granted by the State of New York in the days of Colombia are still in operation down there?

Secretary TAFT. That is the reason. It is merely a formal compliance.

Mr. RICHARDSON. The Government owns all the shares of that road?

Secretary TAFT. Yes; but it does not own all the road, strictly speaking, because there is a mortgage for several million dollars, I think, securing bonds issued and in the hands of private persons.

Mr. BARTLETT. Who pays the interest?

Secretary TAFT. The Government pays the interest on those bonds.

Mr. MANN. The railroad pays the interest?

Secretary TAFT. Yes; the railroad pays the interest.

Mr. BURKE. What rate of interest does it pay?

Secretary TAFT. I think it is $4\frac{1}{2}$ per cent.

Mr. BURKE. Does the railroad company own the steamships?

Secretary TAFT. Not all of them. It owns all but two, and those two were purchased since the Government came into control. They were purchased by the Commission and leased to the railroad company.

Mr. RICHARDSON. Then really the charter granted in the State of New York many years ago is just nominally in force?

Secretary TAFT. Yes, sir; for the purpose of preserving the artificial entity. As long as the State of New York does not question it by quo warranto I do not know that there is any objection to retaining it in that way.

Mr. MANN. Mr. Secretary, when you say "nominally in force" it is more than a mere name? It is really enforced?

Secretary TAFT. Yes; it operates actually. But we comply, as most of the corporations comply, by having the number of directors required to live in New York in the directorate, and so on. The great convenience of an artificial entity like that, which has the obligations and powers of a private corporation, in carrying out the work of a railroad I can hardly exaggerate.

Mr. RICHARDSON. Is not that railroad engaged in the transportation across the Isthmus there of freight and things of that kind, and charging its regular rates?

Secretary TAFT. Yes; just the same.

Mr. RICHARDSON. How is that accounted for? To whom do you account for the proceeds?

Secretary TAFT. We account for the net profits to the stockholders, the largest of whom is the Government of the United States.

Mr. RICHARDSON. Has that had a tendency to raise or depress the price of transportation?

Secretary TAFT. It has not had any effect, I think, at all, because the rates are as we direct.

Mr. MANN. Do you make any reports? Does the Panama Railroad Company make any reports to any public officer?

Secretary TAFT. Yes, sir. It makes a report to Congress. The general auditor of the Commission is the general auditor of the railroad company.

Mr. ESCH. Is the fact that the railroad company is suable an advantage or a disadvantage to the General Government?

Secretary TAFT. The fact that the railroad company is suable is of great advantage in the operation of the road, so far as the general public is concerned.

Mr. ESCH. In an action for damages I can see how that is.

Secretary TAFT. Yes; in claims for violations of contract and that sort of thing. If the Government should run the road it could be sued on a contract, but it could not be sued for a tort.

Mr. MANN. It could not be sued for damages to freight, could it? If there was an actual contract, I think it might.

Secretary TAFT. I think there might be construed to be a contract bringing it under the jurisdiction of the Court of Claims.

Mr. BARTLETT. The State of Georgia built a railroad from Atlanta to Chattanooga, and frequent suits for torts were brought and upheld by our State courts.

Secretary TAFT. I do not know on what ground, but possibly under the terms of the charter you might have done so.

Mr. BURKE. If Senate bill 6523 were enacted into law, do you think it possible to operate that railroad without legislation?

Secretary TAFT. I have read that act and it is a very short one, providing that the Government should assume control of the Panama Railroad Company. I do not think it could operate, because—of course I speak with due deference, and I have not examined all the statutes of the Government and can not say with certainty—but my general knowledge of the statutes of the Government and as to the accounting for all moneys which belong to the Government of the United States is that it would require that all money received for freights, for tickets, and everything of that sort, should first be deposited in the Treasury of the United States, and then be appropriated out, so that it would be impossible to run a railroad under those circumstances.

Mr. BURKE. The employees now employed by the railroad company would all have to be employed by the Government?

Secretary TAFT. Yes, sir.

Mr. WANGER. Then you do not recommend the passage of the bill?

Secretary TAFT. No, sir; I do not.

Mr. MANN. In the bill which the House did pass once, and which died in conference, and part of which I introduced again a year ago last fall, House bill 707—in that bill we made an express appropriation of the receipts of the Panama Railroad Company for the expenses of operation.

Secretary TAFT. It would require a very careful examination of the statutes, Mr. Mann. I do not mean to say that it would be impossible to draw a bill which would enable the Government practically to run the railroad, but it would require a very careful examination of the statutes to eliminate a number of them with respect to Government accounting, in order to run a railroad as railroads ordinarily are run, if run by the Government.

Mr. MANN. In my bill it was provided that the President should run the Panama Railroad in such a manner as he might deem desirable, and then it was provided that so far as necessary, in defraying the expenses of such operation, including maintenance, and so forth, "the receipts without being covered into the Treasury are hereby appropriated for that purpose." Of course that would cover the question of accounting. The only thing in that that I believe necessary to do would be to make a monthly statement of receipts.

Secretary TAFT. You would have to deposit it in the Treasury and get it out again.

Mr. MANN. It says, "without being covered into the Treasury."

Mr. BURKE. Has the railroad company been operated at any profit since it has been under its present management?

Secretary TAFT. I believe it has, although the rates have been reduced so that the profits as compared with those under the previous management have been very much curtailed.

Mr. BURKE. What would happen if there was a deficit as you are operating now? Would the company be authorized to issue bonds?

Secretary TAFT. They have issued bonds.

Mr. BARTLETT. Since the Government owned it?

Secretary TAFT. Since the Government owned it.

Mr. MANN. You do not expect to have a deficit?

Secretary TAFT. No, sir; we do not. They issued bonds, and they were repurchased. I did not think it was wise to pursue the fiction of a private and independent entity to the point of incurring obligations of that sort.

Mr. RICHARDSON. Was not that before the Government came into possession of that stock?

Secretary TAFT. No; oh, yes; it was before—let me see—

Mr. SHONTS. We were just about getting it.

Mr. MANN. Before you bought the last stock?

Mr. RICHARDSON. You first bought 68,000, and then you got the balance up to 70,000. It was before you got the 68,000?

Secretary TAFT. We bought the last of the stock in June, 1905. My impression is that these bonds were issued in November, 1905.

Mr. BURKE. In view of the fact that the Commission pays the railroad company for everything that the railroad company does, and that the Commissioners are directors in the railway company, it is not likely that there will be a deficit?

Secretary TAFT. No, sir.

Mr. ESCH. Will the grant of the pipe lines reduce the profits on the road?

Secretary TAFT. No, sir; for this reason: That the grants of the pipe lines are in effect for the transfer of crude oil, and it would not pay to take crude oil across the Isthmus one way or other except through the pipe lines. The only oil that is transferred on the railroad is refined oil, and the price at which they would have to sell to the Government the oil under the revocable license that is granted to them is so much less than what they could afford to sell refined oil that it is a limitation practically on the character of the oil—that is, to crude oil—and no crude oil passes across the Isthmus in barrels.

Mr. RYAN. The company's steamship line is also run by the Government, is it not?

Secretary TAFT. Yes, sir.

Mr. RICHARDSON. I understood your objection to having the Government take charge of the railroad was really based upon the idea that the Government ought not to enter into Government ownership of anything.

Secretary TAFT. Oh, no, sir. It is a matter of convenience; that is all.

Mr. RYAN. Now, pursuing my question—

Secretary TAFT. If I may add a word before answering your question, I would say that one of the advantages in maintaining the railroad is in the opportunity it gives for observing whether the railroad is being run economically or not. Treating it as a private corporation

and treating it as a separate entity affords the opportunity for judging at once whether or not the railroad is run as it ought to be.

Mr. RYAN. It is said, Mr. Secretary, that the steamship companies that are competitors of the Panama Steamship Line had solicitors and agents who have been required to discontinue their business by the Government agent. I have heard it stated by a man who claimed it was true, that the Government threatened that if they did not discontinue their agents and solicitors the Government would drive them out of business.

Secretary TAFT. I do not know that such orders have been given from headquarters.

Mr. SHONTS. I can explain that. The Government ever since it has been operating this road as a common carrier in competition with other carriers has had to follow such legal methods as it could to preserve its traffic to itself. Now, there is not a sufficient quantity of north-bound business to equalize the south-bound business or, in fact, to give us more than ballast for our boats. However, I am told by the officers in charge of the steamship lines in New York that for a great many years they have had certain traffic from certain points on the west coast of Central and South America, and that as a result of our discontinuing, after Government ownership, the commission to the shippers, the other lines, the Hamburg-American particularly more than the others, sent their representatives down there and appointed these large shippers their agents, paying them a large commission, with the result that the rates agreed upon were reduced to the extent of these unusual commissions over and above a fair amount that should be paid for doing the work of the steamship lines.

The reports that came to me showed that these same people who had been shipping with us for a great many years, and, other things being equal, claimed they would continue to ship our way, inasmuch as our service has improved rather than gone backward, had discontinued our service. We knew there was no question of service. But they gave their business that we have had this length of time to the Hamburg-American Line or the Atlas Line for New York. The Hamburg-American Line would take seven or eight or nine dollars to bring it to New York as against our \$5. We were coming up here with nothing. Occasionally we would have 25 tons out of a shipment of seven or eight or nine hundred tons from the people whose business we had had all those years. The explanation was that if we would meet the commissions or cut our rates to meet the other people we could have their business; that they preferred our service and our trade, but that they could not avail of it at a loss. Two of our boats have water ballast. The other three have no water ballast, and we have been compelled to pick up scrap and use all sorts of devices to safely navigate to New York.

When that situation was presented to me I did authorize a statement to be made to the Hamburg-American people, operating the Atlas Line, that if they would not cease their practice of cutting rates, which we could not legally meet, being a governmental property, we would reduce the rates to \$2 a ton from Colon north. They came down to Washington to see me, and asked if we could wait until they took up this matter with their people in Germany. I said, "Yes."

When they had taken it up and had come back, they said, "What will you do?" I said, "I do not care what you do, so that you do not cut the rates. Let the service take business on an even keel." They finally consented to do that, and that is the last I have heard of the practice. I handled it just as I would any business matter.

Mr. MANN. Are you getting the business now?

Mr. SHONTS. We are not getting complaints. I presume we are getting the business. [Laughter.]

Mr. BURKE. Do you buy the machinery purchased in the United States delivered on the Isthmus, or do you transport everything?

Mr. SHONTS. We buy everything delivered on the Isthmus. The purpose of that, if you want to know, was to open the sale of supplies to each section of the country on the same basis.

Mr. STEVENS. Have you brought on your steamers much of the old scrap that was down there?

Mr. SHONTS. Very little of it.

Mr. MANN. I understand you had some of that for sale. What was done with it?

Mr. SHONTS. The successful bidder made an arrangement with some tramp steamers coming north, and he got the most of it. Ten or eleven thousand tons were disposed of in that way.

Mr. MANN. Is any of it left down there now?

Mr. SHONTS. Yes; vast quantities of it.

Mr. STEVENS. Is it of use to the Commission?

Mr. SHONTS. No, sir; it is of no use to the Commission.

Mr. RYAN. The result of that arrangement was to reduce the rate to shippers?

Mr. SHONTS. No. As I understand it, these big shippers were agents, and they were given a large commission—

Mr. BURKE. Which was virtually a rebate?

Mr. SHONTS. Yes; practically a rebate. All we could do was either to go out of business and let the foreign lines take possession of it—I do not speak of them invidiously—or meet the situation by a flat rate.

Mr. RYAN. Has the rate been changed?

Mr. SHONTS. The rate has not practically been disturbed. They have promised to cancel all their rebates and let the business float on a regular basis.

Mr. MANN. You say you could not legally meet it? Don't you mean you could legally meet it, but not morally?

Mr. SHONTS. I understand that the paying of extra commissions is a violation of law. I understand that they are a violation of law in this country, and I do not think the Government ought to be put in the position of paying rebates, whether it was in our territory or not.

Mr. MANN. The law does not apply to your case at all.

Mr. RYAN. In the event of the continuing of these agencies and the continuing of the granting of these rebates, what could your steamship line have done in order to get a share of the business?

Mr. SHONTS. We would have made a flat rate open to everybody.

Mr. STEVENS. What sort of arrangements or service do you get from the Pacific Mail on the Pacific side?

Mr. SHONTS. Well, we have not had any complaints from their side of the house for a year, barring one. I see one complaint from

Mr. Schwerin, that they were not able to work three nights, I believe, on account of our electric crane not being open. That was because—I made an investigation and Mr. Stevens reported—our electric power, the capacity of which has been taxed to its utmost, was undergoing repair. The foundations of one of the engines had settled, and in rebuilding it we had to shut off part of the power for those three nights. But we are doubling the capacity of the plant and duplicating parts, so that that complaint would not probably happen again. There is no complaint from them. On our part there has not been afforded to us the regular sailings that we should have had. Recently, before my last trip to the Isthmus, there was an accumulation of over 7,000 tons. Of course that took up our facilities on the Pacific side. It occupied a lot of our tracks. It occupied a lot of our cars. A statement that Mr. Stevens prepared and sent me, running from July 1 until, I think, November 1, showed that in no case during that period had we failed to transport from the Atlantic side and tender to the Pacific Mail on the Pacific side every ton of freight on or before the date due for its sailing, and in every instance there have been delays from seven to as high as sixty-odd days to the freight on the Pacific side, caused by their not having the ships coming there regularly and taking the freight away as scheduled.

Mr. MANN. You have no exclusive contract now with the Pacific mail?

Mr. SHONTS. No, sir; we have no exclusive contract with any.

Mr. STEVENS. Did they discontinue their service after the abrogation of that contract?

Mr. SHONTS. No; their service has not been sufficient. They have not had sufficient tonnage to promptly take off the business regularly.

Mr. MANN. Do they have as many vessels as they did before?

Mr. SHONTS. Yes; but there have been times when they had to send in outside ships besides those regularly assigned. But I telegraphed Mr. Schwerin about this accumulation, and they immediately sent in a ship.

Mr. MANN. Before that contract was canceled we were told repeatedly here that if you did not have an exclusive contract with the Pacific steamship line you could do no business with them, and they could do no business with us. I wondered whether that was merely a bluff on their part.

Mr. SHONTS. Our relations have been satisfactory with them, as a general rule, except that they have not had sufficient tonnage to take care of the traffic we offered them.

Mr. STEVENS. Do you get much traffic for the canal from the Pacific side?

Mr. SHONTS. We received a lot of lumber from Oregon at one time and some forage, but it was confined largely to that.

Mr. STEVENS. So that your supplies do not amount to much on that side?

Mr. SHONTS. Not since that first big supply of lumber. That amounted to a great deal in point of volume.

Mr. ESCH. Do the Government boats make the port of New Orleans now?

Mr. SHONTS. No, sir.

Mr. MANN. Mr. Secretary, in connection with this question of the Panama Railroad, would you care to submit a statement in writing covering your objections to that bill?

Secretary TAFT. Yes, sir. I would be glad to. I want to say, Mr. Mann, that confession is good for the soul; that is, that is what we are advised, and I believe that you are right with reference to the limitation on the expenditure of money here, and that this does constitute a limitation. In construing the act heretofore I have always said, "Subject to a possible limitation of this sort," leaving open the question or fact that it existed. The language of the third section is mandatory, that the President shall construct a canal; and it was relying on that that I had chiefly in mind the obligations to go on; but I believe that your suggestion with respect to section 5, that the collocation of the two sentences, the one representing the authority to make the contract and the other the character of the appropriation, the extent of the appropriation, does constitute the limitation.

Mr. MANN. Of course I did not raise the question, Mr. Secretary, except for the purpose of instituting a reform; not for obstructing the work. Nobody wants to stop the work.

Mr. LOVERING. The contract was made with good faith that you would keep within the limitation?

Secretary TAFT. The estimate that we have already had would bring it within the limitation.

Mr. ADAMSON. You have safety valves in the contract when the money gives out?

Mr. LOVERING. Then you do not see the necessity of raising this hypothetical question?

Secretary TAFT. No. Suppose the estimate of this engineering committee that we have would make the pay rolls so large that, counted in with the necessary cost of material, it would exceed the allowed expenditure. Then should we go on, or should we resort to Congress, with the statement that the limitation here apparently fixed by section 5 should be raised or in any way amended or abrogated?

Mr. STEVENS. Is not that important, Mr. Secretary, in view of the fact that the Secretary of War has a great number of similar contracts, and the Secretary of Commerce and Labor also, and the Secretary of the Treasury?

Secretary TAFT. I do not think that the form of those contracts is exactly as this is. I think there is an express provision ordinarily to the effect that the Department may go ahead and contract for a certain amount, but that the appropriations for the following year will be a certain amount.

Mr. STEVENS. There is a limitation usually.

Mr. MANN. Here is the fact: You are speaking of the river and harbor bill, are you not?

Secretary TAFT. Yes.

Mr. MANN. We provide that the river and harbor contracts shall not exceed so much, and then at the end of the bill we provide an additional section of the bill, the law providing that although the work may not be completed within the limit of cost, still the Secretary of War is authorized to go ahead and spend the money that is

provided. But that is an express provision of the statute overriding the other limitations.

Secretary TAFT. But you have the power ordinarily to contract to a certain amount, and appropriations are given for a less sum from time to time—

Mr. MANN. When we give authority to enter into additional contracts—

Secretary TAFT. That is my recollection of it.

Mr. RICHARDSON. Your attention has been called to a certain bill here, Senate bill 6539, which you have stated ought not to be passed. I would be very glad if you would furnish the committee with your reasons why.

Mr. MANN. He has just stated that he would submit that in writing.

Mr. WANGER. Mr. Secretary, there will be sent you a copy of that Senate bill, a copy of House bill 7027, and also a copy of the House bill 25567, which I understand is prepared by yourself, with a copy of the bill introduced by Senator Kittredge; and in replying as to those bills kindly suggest anything that occurs to you as to the amendment thereof.

Secretary TAFT. Yes, sir.

Mr. BARTLETT. In making these contracts has there ever been an estimate of the amount of cubic feet or yards that will have to be removed from the canal, and also as to the amount of material to be removed in building the dam?

Secretary TAFT. There have been such estimates. Of course those were contingent on the dam and the locks taking a certain place.

Mr. BARTLETT. This contract that is proposed for their building is based upon those estimates?

Secretary TAFT. The estimates of the engineering committee would be based upon the completed plans and specifications, which would fix the location, so that the amount to be excavated could be calculated with much more accuracy than the consulting engineers could have calculated at the time they made their estimate. However, I do not think the variation will be very great.

Mr. MANN. Is it possible to make a very accurate estimate of the cost of the Gatun Dam or the amount of labor involved there?

Secretary TAFT. Perhaps you gentlemen may know better than I do about that. You can calculate with considerable exactness the amount of material to be put in there, because you fix exactly where the dam is, and then you can measure its dimensions and fix with considerable exactness the amount to be put in.

Mr. ADAMSON. Mr. Chairman, if it would suit the convenience of the Secretary and Mr. Mann, I would like to move to adjourn this hearing until a more convenient time, say, perhaps this afternoon.

Secretary TAFT. There is one point I would like to speak about with respect to the contract before the end of the hearing. What I have to say is quite short. It was asked how much it was calculated the cost would be upon which this percentage would be calculated. I think generally it is somewhere between sixty and seventy millions.

Mr. ROGERS. It was estimated at about \$70,000,000.

Secretary TAFT. I understand that the calculation as to the cost to the contractor of carrying this out—the cost that he would not be repaid—would amount to something like \$400,000 a year, but of

course that is the statement of a contractor in justifying a larger bid.

Mr. BARTLETT. In estimating that bid, did you estimate what it would cost per cubic yard in moving the earth for the canal or the dam?

Secretary TAFT. Oh, yes; that enters into the calculation of the engineers, and of course you understand that all the sanitation expenses are to be met by the Government, and all the expenses of governing the Isthmus. Then it was suggested by Mr. Richardson—I did not catch it clearly, but I gathered from what he said—that in some way or other the fact that the use of the railway tracks was open to the contractor entered into his percentage.

Mr. RICHARDSON. I asked Mr. Rogers if it did. He said that it did not, but that it was a facility furnished by the Government.

Secretary TAFT. Yes. You will observe under the present arrangement there is a contract between the Commission and the railroad company. It is a formality, of course, in one sense, but it is for the purpose of keeping accounts, and then there is a contract between the railroad and the Commission, by which the Commission doubles the track of the railroad company, and in consideration of that gets free trackage rates over its main tracks. Then the Commission has, of course, itself to construct the very extensive side tracks, if you call them such, that run into the work. That will ultimately, it is calculated, amount to 250 miles in length. That the Commission itself furnishes and pays the expenses of, but the contractor during this period when he is paying out money—it is only a month—pays the expenses of all the men who run those railways, whether on the main line or otherwise, provided they are working trains. Of course he does not pay the expense of running the trains on the railway for the carrying on of the common-carrier business of the railway, but he pays all the expenses and the wages of the men who run those working trains.

Mr. RICHARDSON. And you give him simply the privilege of trackage over the road?

Secretary TAFT. Yes. But of course we furnish and pay for the equipment of the road, the cars; and we also furnish him, if he chooses, with the fuel; or we may have him buy it. But as we always buy fuel from the Panama Railroad Company and get it shipped there, we shall probably exercise the option of furnishing that coal to him instead of having him buy it and charge us a percentage on it.

Mr. WANGER. We are very much obliged to you, Mr. Secretary, for your presence here this morning. Oh, I beg your pardon—

Secretary TAFT. I hope, gentlemen, that in the heat of controversy I have not said anything that is too emphatic. But my impression is that if you will look up the question of the employments you will find that we have struggled and labored with a very difficult matter of making selections, and while we have doubtless made a number of errors, it has not been from any prejudice against Congressmen.

Mr. STEVENS. Mr. Secretary, had you concluded all you desire to say?

Secretary TAFT. Almost. As to my understanding in reading the contract, it is that if the contractor sees fit to employ Chinese labor there is no limitation which will prevent it in the contract; there is no limitation in the law that I know of that prevents his use of

Chinese or other labor. Of course he must conduct the work properly and carry it on. Of course he is bound to obey the laws applicable; and the law that is applicable, so far as the employment of Chinese labor on the Isthmus is concerned, is the thirteenth amendment to the Constitution, namely, that there shall not be peonage or slavery. While that seems a very general limitation in the employment of Chinese labor, it is a very important one. With that exception I do not think there is in the contract a limitation against the employment of Chinese labor, if it should be deemed wise to employ their labor. Several statements have been made with respect to this, but that is my judgment from an examination of the contract.

Mr. MANN. Without going into the subject, can you answer yes or no whether you need additional legislation as to the government of the Zone?

Secretary TAFT. We have now an opinion from the Attorney-General that relieves us from absolute necessity in that matter. That opinion states that, in his judgment, in the absence of legislation by Congress the President has the authority to carry on such government as may be necessary there. That was the decision of the Supreme Court in the Cross case in California, and he has the right to make rules and regulations equivalent to laws until Congress shall act. It would be a great deal better, I think, if you would renew that provision of law which expired by its own limitation at the end of last Congress.

Mr. MANN. That would settle all questions?

Secretary TAFT. Yes, sir.

Mr. WANGER. Will you furnish two copies of the contract and proposals for contracts to the reporter for inclusion in the record?

Secretary TAFT. Yes, sir.

There is a discussion by one of the syndicate of bidders to this contract setting forth the reasons in order to justify what was regarded as a high bid.

Mr. MANN. That has been sent to all of us.

Secretary TAFT. I would be glad to have that go into the record if you desire to take it.

Mr. WANGER. Let it be printed in the record, and give the reporter two copies of it.

Thereupon, at 1.05 o'clock p. m., the committee adjourned.

[Documents filed by Secretary Taft follow:]

PANAMA CANAL CONTRACT.

SUGGESTIONS SUBMITTED ON BEHALF OF THE MACARTHUR-GILLESPIE COMPANY.

I.

The question as to whether or not the Government should complete the construction of the Isthmian Canal by contract was discussed by the chairman of the Isthmian Canal Commission in a communication addressed to the honorable Secretary of War dated August 29, 1906. A copy of this communication was submitted by the Canal Commission to prospective bidders, as indicating to them some of the reasons why the work was to be let to contractors and the qualifications and requirements expected from bidders. From this communication we quote the following paragraphs:

"As to the general advisability of contracting the work of completing the canal, we know from experience that the difficulties to be overcome in the

successful prosecution of any great work are in direct proportion to the magnitude and complexity of the enterprise. Furthermore, experience and observation teach that the best results in any field of human activity are accomplished by those most skilled in that particular field of human endeavor.

"The physical construction of the Panama Canal is, all things considered, the greatest task of modern times. It is in the highest degree exceptional in magnitude, complexity, and cost. In order, therefore, to most successfully, economically, and quickly finish this great work there should be associated with the Commission the best trained talents of the world in each particular department of the undertaking.

"If, therefore, the Commission, by associating with it the best trained construction men available, can receive the immediate benefit of existing organizations which these men control, and which they have spent years in perfecting, and can by reason of their assistance complete the canal in shorter time and for less money, is it not the part of wisdom and sound business judgment to do so?

"As outlined in the accompanying papers, this plan contemplates a competition for the work between two or more groups of contractors, each group composed of contractors who have achieved a significant success in at least one of the departments of constructions involved in the present undertaking, and whose combined experience covers the whole task. By the terms of the invitation, proposals by single individuals or firms whose experience and whose organizations must be relatively limited are therefore discouraged.

"The Government will get the benefit of the combined efforts of the best and most experienced contractors in the world, each in charge of a department in which he is a specialist and cooperating with other specialists, because all are sharers in results, to bring the whole work to the earliest and most successful conclusion."

In pursuance of this plan, invitations to bidders were issued, under date of October 9, to contractors throughout the country. As first issued the obligations and risks placed upon the contractors were exceedingly onerous. Probably no bids would have been received under them. Prior to January 12, the date for reception of bids, the specifications were modified, cutting down the bond to be given by contractors from \$3,000,000 to \$2,000,000, and cutting down the total available capital required to \$5,000,000. There were given out, we are informed, several hundred copies of these invitations, and contractors throughout the country received and examined them. The widest publicity was likewise given through the popular and technical journals. It was expected that there would be several bids from groups of contractors, qualified according to the terms of the invitations and specifications. It is generally known that several such groups were tentatively formed. When it came, however, to the reception of the bids, while four bids were presented, only one of them had complied with the terms and requirements of the invitations and specifications, and that was the bid of the MacArthur-Gillespie Company.

They alone, out of all the possible groups of contractors that might have been formed, were willing or able to form an association of contractors such as contemplated by the Government, and qualified as required. This company, the MacArthur-Gillespie Company, was organized as an association of contractors after much labor and negotiation, and, after most careful preparation, has submitted to the Government a fair and reasonable bid, wholly in conformity to the requirements. No other bid has been made.

Under these circumstances if its bid is reasonable, it should be awarded the contract.

II.

IS THE BID OF THE MACARTHUR-GILLESPIE COMPANY REASONABLE AND THE ONE MOST ADVANTAGEOUS FOR THE GOVERNMENT?

We submit that the bid of the MacArthur-Gillespie Company is the only bid that it is safe for the Government to accept, and the only one offered qualified to perform what the contract requires.

(a) The MacArthur-Gillespie Company is an association of four of the most successful contracting concerns in the United States.

(b) Each of the four concerns composing the group has had a longer, wider, and more successful experience in the field of contracting than any of the other bidders.

(c) Each of the four composing the group has, it is believed, a larger organization of trained and experienced men to draw from than any other one of the bidders for supervision of the work to be done.

(d) The group has had large experience in all the important branches of the work to be done, having built on a large scale canals, dams, locks, reservoirs, deep foundations, and done dredging and excavation work of the most extensive and difficult character. It is believed that no other bidder offers to the Government such combined experience in these classes of work as that offered by this combination.

(e) These works have been performed not for any one corporation in any one locality, but in all climates, under most varied conditions, and for most varied employers—for the United States Government, for States, municipalities, railroads, commissions, and other public and private corporations.

(f) Finally, each one of the four contractors in this group has, it is believed, larger individual equipment, more capital, larger forces of skilled men and employees than those of any other bidder, and combined they present the strongest group of contractors who have ever united their forces and capital in this country.

For the successful, economical, and certain execution of this great work we believe the Government needs what it indicated in its letter and invitation referred to, namely, the strength of the strongest, the skill of the most experienced.

III.

BRIEF STATEMENT OF THE WORK EXECUTED BY EACH OF THIS GROUP OF CONTRACTORS INDIVIDUALLY.

MACARTHUR BROTHERS COMPANY.

This business was founded in 1826 by John R. MacArthur, father of Archibald MacArthur, the present president of the company, and the grandfather of A. F. and John R. MacArthur, who, with others that have grown up in the business, are the present active managers of the company's affairs.

For eighty years successful contracting business has been engaged in by the MacArthurs, and the record of some of the important works done by them recently is as follows:

The Wachusett dam in Massachusetts, the largest artificial reservoir in the United States, built by contract with the Metropolitan water board of the district of Boston for the city of Boston.

The Katonah dam, now being constructed by the aqueduct commission of the city of New York, estimated at over a million dollars, which contract was awarded to the MacArthur Brothers Company, notwithstanding there were four bids lower than MacArthur Brothers Company's—being a recognition of the superior ability and organization of the company for the successful execution and expedition of said work.

The deepening of the West Neebish channel at Sault Ste. Marie, Mich., for the Government of the United States, at an estimated cost of between \$2,000,000 and \$3,000,000.

About twenty masonry locks and dams for the United States Government and the States of New York and Illinois.

Several sections of the Chicago Drainage Canal, at about \$3,000,000.

The entire work of preparing the World's Fair grounds, Chicago, 1892, being the construction of lakes, island, parks, etc.

Several thousand miles of heavy railroad construction in the United States, notably for the Santa Fe, Illinois Central, New York Central system, Pennsylvania lines west of Pittsburg, Burlington, Western Maryland, Union Pacific, Missouri, Kansas and Texas. Deepwater and Tidewater railways, and many others. The extent, variety, and character of the great works done by them demonstrate their fitness to take part as American contractors in this great American work. The work to be done on the great canal has had their special study for many years.

MacArthur Brothers Company now have under execution works which in value exceed what can probably be done in any one year at Panama. The same is true of other contractors of the MacArthur-Gillespie group.

T. A. GILLESPIE COMPANY.

The business of this company was founded by its present head about twenty years ago, since which time it has been actively engaged in heavy work. It has a wide range of experience in general contracting business, and has constructed a large number of dams, reservoirs, power houses, and pipe lines for the East Jersey Water Company and the Jersey City Water Supply Company, at a cost of more than \$5,000,000. It is now engaged in the construction of a dam, power house, and canal at Whitney, N. C., which involves an expenditure of upward of \$4,000,000.

Beyond this, it has constructed a canal and power house for the St. Lawrence Power Company, at Massena, N. Y., five dams and locks for the United States Government on the Monongahela and Ohio rivers, reservoirs and pipe lines for the cities of New York, Pittsburg, Allegheny, Minneapolis, Erie, Troy, Schenectady, and Atlantic City, the Pittsburg filtration plant, and a large amount of railroad, tunnel, and pipe-line work.

In connection with the following contract executed by it, amounting to over \$10,000,000, it may be noted, there is a clause in each of the contracts, providing that all extra work connected with the same should be done at the cost of labor and material plus 15 per cent:

Power development of the St. Lawrence Power Company; Wabash Railroad, Pittsburg; Pittsburg and Bessemer Railroad, Pittsburg; Pan Handle Railroad, Pittsburg; P. & C. Railroad, Pittsburg; city of Pittsburg; city of Erie, Pa; city of Columbus, Ohio; city of Minneapolis, Minn.; city of Atlantic City, N. J.; Braddock Borough, Pa.; city of Allegheny, Pa.; city of Troy, N. Y.; city of Schenectady, N. Y.; Pennsylvania Water Company, Pittsburg; Consolidated Gas Company of New York; Philadelphia Company, Pittsburg; Pittsburg Street Railways Company, Pittsburg; Carnegie Steel Company, Pittsburg; Jones & Laughlin, Pittsburg; Carnegie Natural Gas Company, Pittsburg; Kansas Natural Gas Company, Pittsburg; Manufacturers' Light and Heat Company, Pittsburg.

ATLANTIC, GULF AND PACIFIC COMPANY.

This business was founded by its present head, Mr. McMullen, about thirty years ago.

This company has 17 complete dredging plants, which have an annual aggregate capacity, under average conditions, of 30,000,000 cubic yards of material. It has a staff of over 50 skilled and experienced dredging superintendents and engineers. It has successfully carried through a great variety of work, including the following:

Harbor improvement at Manila for the insular government.

Over 50 dredging contracts for the War Department of the United States.

Several canals, including one 7 miles long, at Sabine Pass, Texas, one 5 miles long, connecting the Yazoo with the Mississippi River, one between Oakland Harbor and San Leandro Bay, California, the waterway and Lake Washington Canal at Seattle, and a section, 20 miles long (now building), of the New York State Barge Canal between Lake Champlain and the Hudson River.

J. G. WHITE & CO.

The business of the company was founded about fifteen years ago by J. G. White, present president of the company. Among the important work of this company is the following:

Harbor improvements at Cebu and Iloilo, P. I.

United States coaling station at Olongapo, P. I.

The street-railway system of Manila.

Numerous steam and electric railroads, several of them being in foreign countries.

Numerous railway and lighting installations and hydraulic plants.

This company now has on hand upward of \$20,000,000 worth of contracting and engineering work.

IV.

SHOULD THE WORK NECESSARILY BE LET TO THE BIDDER WHOSE FIGURES ARE LOWEST?

It appears that, upon the opening of the bids, the four bids were as follows: 6.75 per cent, 7.19 per cent, 12.50 per cent, and 28 per cent. Of the lowest bid in figures only, little need be said. It is insisted, however, that often the lowest bidder is not the best bidder for the Government. This was evidenced in one of the Government contracts heretofore let to one of the group, now

the lowest in price, viz, 6.75 per cent, and who was the lowest bidder upon certain other work at Savannah, Ga.

Upon that bid Oberlin M. Carter stated in a letter of record to the Chief of Engineers, September 29, 1894, referring to the contract upon which Mr. Anson M. Bangs was the lowest bidder in figures, "that the prices bid by Mr. Anson M. Bangs, of Fayetteville, N. Y., are lower than the work can be done for, but as Mr. Bangs is responsible, authority is requested to award the contract to him," which was done. Thereafter an engineer testified on the trial of Captain Carter, in reference to that particular contract let to the lowest bidder, that the contractor had made a profit of \$82,000 on the piece of work, for which the Government paid the contractor \$159,097.10.

In many ordinances and statutes there are provisions requiring work to be let to the "lowest bidder." Experience has demonstrated that often the lowest bid was not the best bid. Later laws have frequently modified that language requiring that public contracts should be let to the "lowest responsible bidder," leaving a margin of judgment as to the character, ability, and efficiency of the contractor bidding to the Commission. More recently in many great public works the necessity of giving a larger latitude in the selection of bidders has compelled a modification of even the language "lowest responsible bidder" by the addition of words which extend the authority of the Commission so as to make it the judge of the qualifications of the bidders and enable them to select the "lowest and best bidder" who, in their opinion, can best perform the contract for the best interests of the municipality.

In the present invitation for proposals, under section 4 of general directions to bidders, the Commission reserved the right to exercise its discretion, and the intimation was plainly stated therein that the Commission would award the contract in accordance with its discretion, in the following language: "The Commission, in selecting the bidder to whom it will award the contract hereunder, will exercise its discretion for the purpose of securing a contractor who shall be capable, in its judgment, to properly and efficiently fulfill the conditions and requirements of the proposed contract. To aid the Commission in the selecting of such contractor, each bidder must fully state what organization, facilities, and experience he commands for undertaking the work, and with what organizations and credit, or means of credit, he will carry out such contract."

The MacArthur-Gillespie Company fully and fairly have so stated, and having done so, it would seem entitled in fairness to the award. No contractor should be allowed to back and fill after the bids are opened and be permitted to speculate whether or not he is able to furnish the credit and capital required by the Commission and organize other groups. Bidding at the Government's invitation is to be encouraged, not discouraged. Rarely have bids been opened but that bidders have seen where they failed and wished to change their bid in form or substance. The ethics governing public lettings will not permit this.

V.

IS THE PRICE OF 12.50 PER CENT A REASONABLE PRICE, SUCH AS SHOULD BE ACCEPTED BY THE GOVERNMENT IF THE CONTRACTORS ARE OTHERWISE ACCEPTABLE?

Percentage contracts have been growing in operations of large corporations requiring the construction of important works, for the purpose of economy, efficiency, and expedition in their execution. The more desirable and profitable a work may appear the more competitors may be expected. The greater reward appeals to the greater number. Judged by this criterion, the bidding by only four contractors upon this work evidences either that the work was too large for any of them, that the requirements of the contract were too severe, the risks too great, the probability of reward too low. This work had received unusual advertisement, due to its magnitude and its national character. The ambition of many contractors was stirred by the opportunity offered.

The Suez success of De Lesseps, notwithstanding his Waterloo at Panama, invited contractors to challenge fate on the field of his disaster.

That only four replied to the invitation for proposals suggests to the writer that the contract was clearly not a desirable one; that a plunger, or a get-rich-quick concern, might try it, but that a contractor, jealous of his reputation, careful of his capital, honest and responsible, would hesitate to attempt it. Two of the bidders admittedly failed to comply with the requirements for bidders. The range of prices indicated that a careful consideration had not been made by the lowest bidders in price. Hard-headed American contractors were generally shy

of the contract. It offered no substantial inducements. It does not at even the price of 12.50 per cent. Capital grew timid when the terms of the contract were examined. The result is, in fact, that the MacArthur-Gillespie Company is the only real responsible bidder who has qualified under the invitation for proposals and that their bid is the only reasonable one.

THE DIFFICULTY IN OBTAINING THE GROUP OF THE MACARTHUR-GILLESPIE COMPANY.

The Government having invited proposals and suggested the character of the groups of contractors it desired to bid, the contract should be awarded to that group which alone has qualified under the conditions named. The formation of the MacArthur-Gillespie Company to bid upon this work was not an easy matter. Contractors of national reputation had to be induced by argument, suggestion, and effort to join such a combination. The division of the work, and, necessarily, the profits, did not appeal to large contractors, who have all the work they can perform in these profitable times at home. Five millions of capital and credit was to be interested. This also necessitated an expenditure of time, effort, and money. To secure so much money and credit to be invested for so long a time in a new country, with so many conditions of danger and risk attendant therein, was not readily done, and the compensation therefor ought to be sufficient. This has been successfully done, and although the right of rejection of all bids is retained by the Government it is respectfully urged that this combination of contractors, who have unified for the purpose of doing a world work by Americans for Americans and for the world, ought not to be slightly turned down because of a lower bid, which had not properly qualified, according to the terms of the invitation, and which has created an impression that the work ought not to be given to a bidder whose price is twice that of the lowest, which was a speculative bid, unbalanced, and which invites defeat at the outset. The 12.50 per cent is not twice that ordinarily given in the construction of work in the States, but as the average; at least so say many competent engineers and contractors.

ACTUAL EXPENSES INVOLVED.

Before the contractor can take any profit he must defray out of his commission very considerable current expenses, including interest upon working capital, compensation to sureties, salaries of general officers, administration and legal expenses, traveling expenses, taxes, rent, one-third of the cost of meeting personal-injury claims, and the entire cost of meeting current claims for damages to property caused by the acts of the contractor's employees. Conservative contractors agree that the expenses of this character are likely to amount to between 4 per cent and 5 per cent of the pay rolls. Accordingly, of a percentage of 12½ per cent not over 7½ or 8 per cent will be left to compensate the four large contractors for many years of hard work and grave responsibility and for withdrawing from a corresponding amount of work at home offering perhaps better prospects of remuneration with less of risk.

THE ITEM OF PLANT IN PERCENTAGE WORK.

In all work, whether done for unit prices or upon a percentage basis, the item of plant expense must be taken into account and provided for. The importance of this item, however, varies widely, according to the nature of the work to be performed. In some kinds of work, such as the construction of buildings and similar work, the amount of plant required is an exceedingly small part of the cost, the chief items being labor and materials. Likewise, in some forms of railroad and other work the plant required is small, in others large, and in still other kinds of work, particularly canals, dams, locks, heavy excavation, and dredging work, the item of plant becomes a very large and important element of the cost.

When work is done upon the unit basis, which is the more usual basis in this country, contractors in competing for the same must figure as an element of the cost this item of plant expense, and to the items of plant expense and of cost of labor and materials, etc., the contractor adds his percentage of profit, and thus determines the unit prices to be paid.

The same holds good in percentage contracts. The item of plant expense may be large or small, depending upon the nature of the work. Where the item is small it is very often included in the percentage price. Where the item is

large the plant is either furnished independently of the contractor's percentage or is included in the contractor's percentage, in which case his percentage must be correspondingly large and may run to 30 per cent or over, depending upon the amount of plant required.

In percentage work, where the plant to be used is furnished by some one else or is exceedingly small in amount or cost, the percentage prices usually received vary from 10 to 15 per cent, according to the other conditions surrounding the contract.

It will thus be seen that in discussing the reasonableness of a percentage contract all the terms and conditions of the contract must be carefully considered.

We have known of a few instances of percentage work where the burdens, risks, and responsibilities upon the contractor have been so eliminated as to enable him to enter into profitable contracts upon a basis much lower than those stated above, but in such cases he assumes practically the position of executive superintendent alone without the burden or liability, and is paid accordingly.

In the present case of the Panama contract, the burdens, liabilities, and expenses put upon the contractor will reach large proportions in actual cost and expenses, and this is necessarily so, for what the Government needs and expects is not the mere supervision of a simple task, but the devotion and application of the best abilities to the world's greatest construction problem.

VI.

WHAT IS THE USUAL AND REASONABLE PRICE ON PERCENTAGE WORK IN THE UNITED STATES?

The percentage usually given in the United States upon contracting work will doubtless average 10 to 15 per cent. It is somewhat difficult to ascertain what is the usual percentage, because contracts vary both in the character of the work to be performed, its time, its risks, its capital, its probability of success, and particularly upon the provisions of the contract which invest authority in controlling the manner, method, time, forces, etc., in execution of the work.

This contract, at paragraph 15 of article 3, in making provision that the Commission will manufacture and repair for the contractor certain machinery and tools, states that it will charge the contractor therefor "actual cost, plus 15 per cent." This the Government must have deemed reasonable. In the doing of extra work by the New York Central and Hudson River Railroad Company, its price is cost and 15 per cent. A great many contracts for public work contain a provision giving to the contractor for extra work done outside of the contract work cost plus 15, 12.5, or 10 per cent, as a matter of agreement, upon both labor and material.

In recent railroad construction work in the United States it has not been unusual to make percentage contracts upon the basis of cost of labor and materials with 10 to 15 per cent added. A recent inquiry made of the leading contractors and engineers of the United States for the purpose of ascertaining what was the current price, developed as follows: That the prices run from 10 to 15 per cent, upon the cost of both labor and material, and the consensus of opinion of such engineers and contractors will establish that the prices are between 10 and 15 per cent and will average 12.5 per cent on work executed on the percentage basis, always depending on terms of contract.

A few of the opinions of engineers and contractors received are submitted herewith in an appendix. In determining the reasonableness of the percentage it must be remembered that the contractor herein is to receive a percentage on the labor cost alone, receiving nothing upon the vast amount of materials used and handled—such as cement, explosives, supplies, etc.—as is customarily allowed in most percentage contracts.

Upon railroad contracts and other work removed from the immediate vicinity of great cities, as this is, the contractor ordinarily expects to make a profit upon the commissary and the sale of supplies to the employees, all of which are expressly eliminated in this contract.

The boarding of the employees is another source of profit in large contracts, where a portion of the profit of the boarding house frequently goes to the contractor. This has been interdicted by the terms of this contract, the Government reserving the right itself to furnish and control the furnishing of commissary supplies and the operation of boarding houses. That these privileges were deemed valuable and important is evidenced by the reservation itself.

Architects are often paid a 5 per cent commission in the cost of buildings for supervision alone, while contractors on large buildings receive a percentage payment on both the labor and the material included in the work of between 10 and 15 per cent. The percentage on the material is easily and readily earned, while the percentage on the labor is payment for continuous and incessant effort, control, and operation.

RISKS OF THE CONTRACT.

Large risks not incident to other contracts are involved in this Panama contract by the very terms thereof, by which the contractors may lose their profits, their capital, their reputation, their work for years, and possibly their lives.

It will be difficult to enumerate the risks which the contractor may be called upon to bear, it becoming to a certain extent a sharer with the Government in the dangers incident to the doing of the work. It is difficult to determine what possibilities might arise. The risk of being subjected to a great penalty in case the anticipated time of completion or the cost of construction should be exceeded is one which every cautious bidder should weigh with consideration. While the bonus offered is intended, no doubt, as a spur to work and an incentive to economy, it is well known that engineers repeatedly fail in their estimates and underestimate both cost and time. A misjudged estimate might leave the contractor on the Panama Canal with his percentage still in the hands of the Government, forfeited and lost. Every contractor would like to earn a bonus on work, and doubtless all make the effort when practicable, but a little examination will determine that it is rarely successful. The numerical control of the board of individuals making the estimate rests with the Government and thereby creates an element of risk and a possible loss which ought not to be omitted in considering the danger of loss incident to this work and contract.

Attention is called to one other risk of the contract, viz, article 11 in page 13, entitled, "Termination of contract when contractor is not in default," reading as follows: "Irrespective of any default upon the part of the contractor, the Commission reserves the right to terminate this contract at any time in its discretion upon the terms of paying to the contractor the entire cost of the work performed by him to such time, ascertained in the manner hereinbefore provided, the percentage earned by him upon such cost and two hundred and fifty thousand dollars (\$250,000) additional: *Provided*, That the total amount payable to the contractor, including debits against him authorized under the contract, shall not in any event be less than five hundred thousand dollars: *And further provided*, That, should the contractor have done at such time, in the judgment of the chief engineer, less than one-third of the work contracted to be done, he shall be paid one (1) per centum additional. At such time also an estimate shall be made by the chief engineer to ascertain whether the work to such time has proportionately exceeded or fallen behind the estimated cost and time, and proportionate profits and premiums or deductions shall be credited to or charged against the contractor accordingly." Which, while it is a large risk taken by the contractors, is, at the same time a protection to the Government, for if the Government shall be satisfied that the contractor has too large a percentage and is making too much money, it remains in its power to cancel the contract on payment to the contractor of \$250,000. While the group of contractors, whose bid, it is claimed, should be accepted, would doubtless feel aggrieved if this cancellation were effected shortly after the institution of the work, still no serious complaint could be made, because it is a power in the terms of the contract, giving a reservation to the Government the right to cancel at any time without default for so much money.

Why should the Government now hesitate to award this contract to the responsible parties who have qualified, when in no event could it lose but a limited sum, if it subsequently learned that it was paying a price not fairly measured by the services rendered?

The contract is not so serious a matter on behalf of the Government, when it controls the situation with this large group of contractors, at a risk to itself not exceeding the terms stated.

The risk of great loss, delay, and life involved in the fact that the work is located in the Tropics is not to be ignored, notwithstanding the effort of the Government to create a healthy section out of malarious conditions. Insidious malaria, plagues, and epidemics have all found their favorite breeding places beneath tropical suns, and no man can now determine what may be the ultimate

effect on the Isthmus of the conditions attendant on the moving of earth, impounding and inundations of water, creation of lakes, obliteration of swamps, torrents of rain, and the commingling of many and varied nationalities in labor, and otherwise, upon this contract and these contractors. A subtle plague, inexplicable and unannounced, might sweep the Isthmus, and leave the contractor crippled in the doing of the work. Ten years of time leaves large opportunities for the unseen and the unexpected.

That these risks have weighed heavily on the minds of the contractors in this country, is demonstrated beyond question by the fact of the limited number of bidders upon these proposals, and the range of their bids.

The percentage being limited to a percentage upon the work, and not the material, ought to be more than the usual percentage, because the usual percentage is given both on labor and material; one is easily earned, the other with difficulty.

The retention of one-third of the contractor's commission for long years until the completion of the work, ought to increase the percentage allowed for the doing of the same.

A large number of the best engineers and largest contractors in America have certified, over their signatures, that the percentage of from 10 to 15 per cent for doing this work, under this form of contract, at the place where the work is to be done, and under the existing conditions, is not unreasonable, and many of them fix 12.50 per cent, as in their opinion, the reasonable price.

There are many so-called contractors who would have undertaken this work for a less percentage even than the so-called lowest bidder here, with the hope of snatching the first fruits therefrom, and leave the Government in the lurch when the day of trial came. A division of profits, among four companies, reduces the compensation of each. A single bidder or a small combination could make a lower bid than four, and obviously render less service with less valuable organization and less expedition, which was not contemplated in the invitation to bidders.

The Government of the United States after its own years of experience upon this work must know that the probabilities are that the MacArthur-Gillespie Company can perform this work and be paid 12.50 per cent on its cost, according to the terms of this contract, and still make a large saving in money and shorten the time for the completion of the undertaking for the Government. It would be a poor exhibition of attempted economy and frugality on the part of the Commission to haggle over the percentage on this work with these men who have carefully, patriotically, and determinedly offered to execute the same, and who have pledged to it their abilities, their reputations, and their fortunes.

The percentage price to be distributed among the four members of the group should be commensurate with the work, the responsibility, experience, ability, and power of performance of the contractors, and creditable to the Government of the United States.

Respectfully submitted.

HENRY W. MAGEE.

APPENDIX.

[Being letters and telegrams from leading engineers and contractors in reply to query as to what, in their opinion, was a reasonable percentage price, etc.]

Engineers.

PARK ROW BUILDING,
New York City, January 19, 1907.

In response to your inquiry as to the percentage of profit usually allowed contractors by the State of New York in its public work, such as canal improvement, highway improvement, etc., I desire to state that the usual allowance is from 10 to 15 per cent. Of course this is for work done within the State in close proximity to the base of supplies for labor, tools, plant, and materials. If the work was done in the Tropics I should think this percentage could be fairly increased.

My experience in State work has extended over the last twelve years, during which time I was connected with the State engineer's department and had charge of the expending of between \$10,000,000 and \$15,000,000 in State work.

Yours, truly,

HENRY A. VAN ASTYNE,
Ex-State Engineer and Surveyor.

NEW YORK, N. Y., *January 22, 1907.*

The inquiry as to my experience and personal knowledge on engineering contracting done on a percentage basis in this country has received my careful consideration. My experience in engineering contracting on a large scale began in 1884, with my connection with the Phoenix Bridge Company, of Philadelphia and New York, although I had been engaged in engineering practice for eight years prior to that date. The business of the Phoenix Bridge Company, with which I was connected in various capacities from assistant to the chief engineer to general manager from 1884 to 1891, was the construction of iron and steel bridges, chiefly for the railways of the country, with occasional contracts for the substructures or foundations of such bridges. From 1891 to the present time I have been engaged, among other things, as consulting engineer in charge of the design and construction of both the foundations and superstructures of large bridges in New York and other places about the country and in the design and construction of other large public works to the extent of many millions of dollars. This consulting and contract experience has covered such constructions as proposed bridges across the North River at New York, the San Pedro breakwater, at San Pedro, on the coast of southern California, the work of both the first and second Isthmian Canal Commissions, the department of docks of New York, the aqueduct commission of the city of New York, and the board of water supply of the same city, now engaged upon a plan of additional supply involving an estimated expenditure of over \$150,000,000, besides a variety of engineering contract work of less prominence. Within my own experience in connection with the works referred to above wherever contract work has been done upon a percentage basis that percentage has varied from 10 to 15, the first being the more usual value, while the latter (15 per cent) is applicable to smaller works of uncertain character, or where the contractor would supply plant of an expensive or exceptional character. I know of practically no cases where the percentage has been less than 10 per cent or greater than 15 per cent.

The method of doing work on a percentage basis has been much extended during the past five or ten years until it may be said to be a rather common practice for the largest and heaviest building work in the city of New York. It is within my personal knowledge that at least one of the largest and most experienced foundation companies in the city of New York does not only the greater part of its contracting work here on a percentage basis, varying from 10 to 15 per cent, but also a substantial part—perhaps even a majority—of its foundation work throughout the country for large railroad corporations on the same basis. In cases where this company supplies its own plant, especially if of an expensive character, it receives 15 per cent as its compensation, its own organization being applied to the work under that arrangement. More frequently, however, the compensation ranges from 10 to 12½ per cent, that percentage being applied to the pay rolls and to the costs of all materials purchased for the work.

At least one of the great railroads entering New York City contracts on a percentage basis varying from 10 to 15 per cent, the latter covering smaller work of uncertain character.

I may state generally that the basis of compensation of 12½ per cent upon pay rolls and costs of materials purchased is a fair representation of much of the contracting now being done in this country in a wide range of large engineering construction.

Very truly, yours,

WM. H. BURR.

EVANSTON, ILL., *January 20, 1907.*

It is usual to allow 10 to 15 per cent on material and labor in percentage contract.

LYMAN E. COOLEY.

NEW YORK, *January 21, 1907.*

DEAR SIR: In response to your request for an expression of my opinion and experience in regard to work done on a percentage basis, which I understand you desire to submit to President Roosevelt in connection with the consideration of the Panama Canal bids, I beg to state that during my experience, particularly in the last seventeen years, I have known of and had charge of, either

as principal or assistant, several million dollars in value of work done on a purely percentage basis—that is, where a percentage was paid on the entire cost of the work, including the plant.

It has been the practice with some of the large corporations with which I have been connected to do work in this way whenever there was need of expedition or where uncertainty existed as to the conditions to be met, and this method was eminently satisfactory. The commission in these cases ranged from 8 to 10 or 12 per cent. No work is done for the city of New York on a percentage basis, except to a limited extent, and in these cases it is the custom to add 15 per cent to the actual cost of the work.

I looked over the specifications for the Panama Canal at the time they were issued and formed the opinion that with the uncertainties existing on the Isthmus of Panama in regard to climatic and other conditions, and particularly because a profit is to be paid on only a portion of the cost of the work, 15 per cent would be low. The 12½ per cent bid by your clients is, in my judgment, a low bid and one advantageous to the Government.

Regarding your request for a statement of my experience, I was for some thirteen years connected with the East Jersey Water Company and other water companies in New Jersey, during the last four years of that period holding the position of chief engineer. These companies did work of the value of many millions of dollars, some of the most important work being conducted on a percentage basis. In 1903 I became chief engineer to the aqueduct commissioners of the city of New York, and am now chief engineer, and as such the principal executive officer, of the board of water supply of the city of New York, which is in charge of the construction of an additional water supply for the city, a project of equal or greater magnitude than the Panama Canal.

Very truly, yours,

J. WALDO SMITH.

16 EXCHANGE PLACE, NEW YORK.

Compensation to contractors was, until within the past ten years, generally based upon unit prices for the various items of construction. Recently, however, the percentage method has been largely used, such percentage being based upon the total cost of labor and material. The percentage figure has been quite generally about 10 per cent, and greater when requiring special skill.

In most contracts upon a unit-price basis there is a provision for compensation to the contractor for extra work upon a percentage basis, and that percentage is generally from 10 to 15 per cent upon cost of all labor and material.

JOHN BOGART.

WESTERN MARYLAND RAILROAD COMPANY.

Cumberland, Md., January 21, 1907.

DEAR SIR: In connection with the MacArthur Brothers bid on the Panama Canal work, they have asked me to communicate to you such views as I may entertain in regard to the reasonableness of their bid, together with any remarks I might wish to make relative to accepted custom or usual practice on contract work executed under the percentage system. In accordance with this, I telegraphed you as follows:

"Contract work on percentage basis is usually 10 to 15 per cent on actual cost. Great Northern Railroad and other lines conform to this usage. Never heard of less than 10 per cent."

I will further explain by saying that I have seen none of the MacArthurs or anyone else connected either directly or indirectly with bidding on the Panama work since the determination to let that work by contract was reached. I have, however, known of the work of MacArthur Brothers Company for several years, and about a year ago they finished up for us here several million dollars worth of railroad construction, involving heavy grading, tunnel work, bridges, etc., all of which was completed in a very satisfactory manner.

Their bid on the canal work, which, I understand, is 12½ per cent, strikes me, as I think it would nearly every engineer of experience in construction work, as being well balanced, fair and reasonable, and almost in exact accord with all precedent governing contract work when placed on the percentage basis. I think to most engineers it comes as a matter of surprise that the Government should secure so low a bid as one between 6 and 7 per cent from reputable and responsible parties.

An abnormally low bid, at least in railroad practice, is looked upon with some apprehension, for the reason that too low a margin against the contingencies and responsibilities involved may mean embarrassment or failure to the contractor and consequently to the railroad company itself.

It is our opinion that it would be ill-advised for the Government to place this work in anyone's hands but those of the strongest contractors, and upon such a fair margin of percentage as will enable them to maintain their strength and aggressiveness throughout the entire length of the work, and thus minimize placing the Government in an embarrassing position due to the possible failure which might ensue in placing the work at too low a margin of percentage to insure absolute stability in the conduct of the work.

Yours, truly,

J. Q. BARLOW.

THE CITY OF NEW YORK AQUEDUCT COMMISSIONERS,
CHIEF OF ENGINEER'S OFFICE.

New York, January 22, 1907.

DEAR SIR: In carrying on the operations of this commission we frequently have occasion to do certain pieces of work on what is called the percentage basis. In these cases it has been the general rule to add 15 per cent to the cost price for superintendence, etc. In a piece of work of great magnitude, of course, this would be somewhat reduced. A percentage of from 10 to 15 per cent would, however, in my judgment, be warranted in an undertaking where the risks are, though uncertain, bound to be very great, or where unforeseen contingencies may cause very great and unexpected outlays.

Very truly, yours,

WALTER H. SEARS, *Chief Engineer.*

THE BOARD OF RAPID TRANSIT RAILROAD COMMISSIONERS,
CHIEF ENGINEER'S OFFICE.

New York, January 22, 1907.

Messrs. MacArthur Brothers have asked me to state what I think would be a proper profit on contract work, according to my experience. I should state that I consider between 10 and 15 per cent a proper profit, the variation depending upon the accessibility and the ease with which the work is conducted, and also taking into account the various risks in the matter.

Very truly, yours,

GEORGE S. RICE, *Chief Engineer.*

New York, January 21, 1907.

Referring to your inquiry in regard to contract work on a percentage basis, I would state that this system is largely followed where conditions are unusual and definite information lacking. For instance, in New York City the laying of the underground trolleys was nearly all done by contract on the percentage basis owing to the difficulty of forming an estimate of the cost of moving the various water pipes, gas pipes, etc., the exact location of which was unknown. It has also been customary in sinking the foundations of large office buildings in the lower part of New York City to let these contracts on a percentage basis. Of course, in letting a contract on this basis it is absolutely essential that the contract be given to one who is an expert in that particular line of work, as the contractor is being paid the percentage for his skilled organization, and if this is lacking the principal, of course, obtains no benefit. In fact, the only reason for giving a percentage contract to any particular contractor is because he is thoroughly well qualified in every respect to carry on the work in the most efficient manner. The exact percentage is determined largely by conditions in each particular case. Generally speaking, it is customary to give 10 per cent on labor and materials and from 12½ per cent to 15 per cent on labor alone. I do not know personally of any case where the percentage has gone lower than 10 per cent on materials and labor. Recently, as consulting engineer for a system of railways in South America, I advised that a contract be given to a responsible and experienced contractor at 10 per cent on labor and materials, the railway company furnishing the plant.

In reference to the Panama Canal contract, considering all its provisions, I regard 12½ per cent as fair and reasonable when given to such responsible and experienced contractors as MacArthur Brothers and associates.

Yours, truly,

PHILIP W. HENRY.

NEW YORK, *January 21, 1907.*

DEAR SIR: I take pleasure in testifying to the advantages to be obtained by letting work on a "cost plus a percentage of profit basis."

This percentage of profit to the contractor must vary, of course, with circumstances. If the work to be done is of an ordinary and simple character, the profit should be less than where it is most complicated and most difficult to manage.

Ten per cent may be a good profit in the one case where 20 or even 30 per cent would not be too much in the other, all depending upon the amount of risk the contractor assumes.

Then, again, the cost of materials and appliances, interest on the capital invested in plant, etc., maintenance of a large office force, etc., may bear a larger proportion to the cost of construction in one case than in another.

From the engineer's standpoint, as distinctly there is from the contractor's, an advantage in this proportion of profit to the cost being high enough to encourage the contractor to do his best. The application of this fits alike the contract let for a "lump sum" and that on the percentage basis. The work must be let at a fair price in both cases in order to secure well-executed work, honestly done.

The reputable contractor offering to do a piece of work for a lump sum either must quote a high price to avoid the risk of loss, or else he is tempted to skimp his work or resort to some other expedient to come out even.

The writer only this morning has received a bid from one of the largest and best known firms in the country to undertake a large contract for masonry piers costing considerably over \$1,000,000, at "actual cost plus 15 per cent." As he says "to cover his services and profit."

Trusting that perhaps I have answered your inquiry without saying any more, I am,

Very truly, yours,

F. STUART WILLIAMSON.

NEW YORK, *January 19, 1907.*

In an engineering experience of over twenty-seven years, during which I have had charge of work costing several millions of dollars and have been cognizant of much more not under my own supervision, and much of which has been done by "force account," the allowance to the contractors for work so done has generally been from 10 to 20 per cent for the superintendence, use of small tools, etc. I have never known of a smaller allowance than 10 per cent, while in cases of special importance and difficulty 25 per cent has been allowed.

The percentage allowed to the contractor for such work is generally larger in recent years than in the earlier portion of my practice and observation.

HERBERT C. KEITH.

Telegrams.

THOMASVILLE, GA., *January 21, 1907.*

My opinion is that 12½ per cent commission on labor rolls only, the Government reserving to itself all profit on merchandise, materials for construction, supplies, machinery, and outfit, would be a very moderate compensation for the services and superintendence of competent contractors in constructing Panama Canal. Assured scarcity of labor and consequent prolongation of time of service of contractors are important elements entering into value of services.

D. C. SHEPARD.

PARKERSBURG, W. VA., *January 20, 1907.*

Large contract work on per cent basis. It is customary to pay 10 to 15 per cent on cost of both labor and material for the supervision and furnishing plant. We paid 12½ per cent on contract Zanesville, Marietta and Parkersburg, Little Kanawha, and Buchanan Northern Railroads.

S. D. BRADY,

Chief Engineer, Zanesville, Marietta and Parkersburg Railroad.

Telegrams from engineers.

CHICAGO, January 21, 1907.

Will state that on large contracts on percentage basis on ordinary form it is usual to allow from 10 to 15 per cent on cost of labor and material for superintendence, use of tools, and profit.

RALPH MODJESKI.

BALTIMORE, MD., January 22, 1907.

When construction work is done by contractors on percentage basis it is customary to pay not less than 10 per cent on labor and material, and from that to 15 per cent, depending on character of work and general conditions.

A. M. KINSMAN,
Engineer of Construction, Baltimore and Ohio Railroad.

CUMBERLAND, MD., January 19, 1907.

Contract work on percentage basis is usually 10 to 15 per cent on actual cost. Never heard of less than 10 per cent; Great Northern Railroad and other lines conform to this usage.

J. Q. BARLOW,
Chief Engineer, Western Maryland Railroad.

CHICAGO, January 22, 1907.

On large contracts let on percentage basis the usual percentage is from 10 per cent to 15 per cent on total cost of labor and material.

W. L. BRECKINRIDGE,
Engineer Lines, Est. C. B. and O. Ry.

ST. LOUIS, MO., January 21, 1907.

Contractors working on percentage basis commonly receive 10 to 15 per cent on both labor and material.

-W. S. DAWLEY,
Chief Engineer, Alleghany Improvement Company.

DULUTH, MINN., January 20, 1907.

On large contracts let on percentage basis railroad companies and the United States Steel Company are paying contractors 10 to 15 per cent both labor and material.

ARTHUR MITCHELL,
Engineer, Duluth and Northern Minnesota.

CHICAGO, ILL., January 19, 1907.

On all large contracts let on percentage basis it is usual to charge 10 to 15 per cent commission on cost of labor and material.

E. C. & R. M. SHANKLAND,
Civil Engineers.

CHICAGO, January, 1907.

In letting contracts on a percentage basis it is customary to allow from 10 to 15 per cent of cost of work to contractor for supervision and use of tools.

R. B. SEYMOUR,
Chief Engineer, C. I. and S. Railroad.

HAMMOND, IND., January 20, 1907.

Work is often let on large contract for actual cost plus 10 or 15 per cent.

B. C. RICH,
Assistant Chief Engineer C. I. and S. Railway.

Letters from contractors.

WORCESTER, MASS., January 21, 1907.

I have your letter in reference to percentage work, and in reply would say that I have done much work on this basis, and the per cent paid depends largely on the character of the work done.

We received for erecting New York Life Insurance buildings, one in Kansas City, another in Omaha, cost and 10 per cent for each.

We received for additional work on the Boston Terminal Station, foundations and superstructure, cost and 15 per cent.

In several cases where we have done sewage and earth work the additional work has been paid for at cost and 15 per cent profit.

Percentage work based on labor alone is generally taken at 15 per cent.

For work done for the Government on the Springfield waterworks, Springfield, Mass., we received cost and 10 per cent, and were paid for tools, machines, engines, and derricks.

We received for work done on the White House, cost and 10 per cent. This included constructional plans, material, and use of tools.

The character of the work at the Isthmus is such that a larger per cent than usual would be reasonable and should be given and likely would be necessary.

I have studied the Isthmus Canal problem for over thirty years, and unless conditions have materially changed there you ought to get for work at Panama, if you have to guarantee cost, at least 5 per cent more than you would in the States.

Yours, very truly,

O. W. NORCROSS.

Telegrams from contractors.

BEATRICE, NEV., January 19, 1907.

Railroad companies frequently have work done on basis of cost of labor and material plus 10 to 15 per cent.

KILPATRICK BROS. & COLLINS CONTRACTING Co.

BUFFALO, N. Y., January 19, 1907.

Answering your inquiry as to the customary percentage on work so done throughout the United States, will say that as superintendent of maintenance of the Rock Island lines and chief engineer of the Lackawanna, on those roads all work that was let on percentage basis was on the basis of 10 per cent profit on cost of labor and material.

At this time the work we are doing in the neighborhood of Buffalo our firm, as contractors, are receiving 10 per cent on labor and material on all work outside of regular contract.

As a rule, in work of this kind, labor and material usually figure about an equal amount, or an equivalent of about 20 per cent on the pay roll alone.

Yours, very truly,

HYDE MCFARLIN Co.,
W. K. MCFARLIN,
Secretary and Treasurer.

THE FOUNDATION COMPANY,
New York, January 21, 1907.

DEAR SIR: With reference to the remuneration which ought to be paid to the contractors who undertake the construction of the Panama Canal under the specifications issued by the Government, we consider that 12½ per cent on the labor cost is a low percentage. In our own operations all over the country we do a great deal of work for corporations, the payment for which to us is never less than 10 per cent on the whole cost of labor and material and of plant rental. Our remuneration is frequently 15 per cent on the cost of the work when we furnish the plant, not including hand tools or supplies.

We think that, including general expense, the expenditures to be made by the contractors under the Government specifications, for which they will not be directly reimbursed, will amount to 6 per cent on the whole labor cost.

In view of the magnitude and difficulties of the work, the climatic conditions, and the large and expensive organization necessary to prosecute operations with rapidity, thoroughness, and economy, we think that 12½ per cent on the labor cost is absolutely the lowest remuneration for which any group of efficient contractors can afford to do the work.

Very truly, yours,

THE FOUNDATION COMPANY,
EDWIN S. JARRETT,
Secretary and Treasurer.

JOHN PEIRCE COMPANY,
New York, January 19, 1907.

In important contracts covering construction work done in the United States on a percentage basis, the contractor's compensation varies from 7 to 15 per cent, depending upon the character of the work and the conditions surrounding it.

Where the work is conducted in a region accessible to a good labor market, we have found the lower percentage a satisfactory compensation. In regions, however, remote from supply depots and a source of labor, and where the climatic conditions are bad, the higher percentage is often not enough to cover risks and delays.

The above statements are based on an experience extending over a period of twenty-five years, covering Government and other contracts aggregating \$50,000,000.

JOHN PEIRCE COMPANY,
EMIL DIEBITSCH, *Vice-President.*

CHICAGO, January 19, 1907.

In letting large contracts on percentage basis it is customary to pay from 10 to 15 per cent on all labor and material furnished.

JOHN GRIFFITHS & SON.

CONTINENTAL ASPHALT PAVING COMPANY,
New York, January 19, 1907.

Replying to your request, we beg to say that it has been our experience in regard to percentage contract work that the percentages paid vary from 10 to 20 per cent, depending upon the nature of the work, the conditions under which it is to be performed, the grade of ability and experience required, and also somewhat upon the conditions of business, etc.

As a rule in contracts provision is made for the payment for work to be undertaken which may not be specifically embraced in the terms of the contract, and this work is almost uniformly paid for upon a percentage basis, and as a rule the percentage paid is 15 per cent. We have known of large contracts being let at 12 per cent, 12½ per cent, and 15 per cent, and others at 10 per cent, but we do not recall any contracts of magnitude and difficulty, or in fact any general, large contracts at all, where a percentage of less than 10 per cent has been paid.

Another factor which determines the percentage to be paid is whether or not the percentage is upon labor and materials both or upon labor alone. Where it

is upon the labor alone the percentage usually, and naturally, runs higher than where it is upon both labor and materials.

We feel some reticence in naming certain specific instances of percentage work, inasmuch as it would not be proper for us to disclose prices without the consent of other parties, but we have given you the ranges of percentage work as known to us by experience.

This company is in the general contracting business and at present engaged in installing the high-pressure salt-water main service for the city of New York, at an aggregate cost of about \$3,000,000.

The specifications in this contract provide for the payment of all extra work to be done in connection therewith at cost plus 10 per cent. This, in our judgment, is fair compensation for work to be done right at home. To leave the country we would require a much higher percentage to make the proposition attractive.

Very truly, yours.

CONTINENTAL ASPHALT PAVING COMPANY,
HUGO REID, *President.*

EVANSTON, ILL., *January 19, 1907.*

On large construction contracts on percentage basis it is customary to pay from 10 to 15 per cent on both labor and material.

FITZSIMMONS & CONNELL,
Contractors for Public Works.

SOO, MICH., *January 19, 1907.*

We never knew of contracts let on percentage basis for less than 10 per cent on both labor and material. Chandler Dunbar paid it on two years' contract; also Lake Superior Power Company, to Talbert & Co., and several others. On contracts extending over a number of years 15 per cent is not unusual.

EDWARD BROS.,
Contractors for Public Works.

CHICAGO, ILL., *January 21, 1907.*

On all large contracts let on a percentage basis it is customary to allow from 10 to 15 per cent on cost of both labor and material.

G. H. SCRIBNER, Jr., *Contractor.*

ST. PAUL, MINN., *January 21, 1907.*

We have just completed \$180,000 contract on basis of 10 per cent over cost of furnishing labor and material and we have received as high as 15 per cent on other work performed during the past year, but of less magnitude.

FRANKMAN BROS. & MORRIS.

SOO, MICH., 19.

On all large contracts on percentage basis usual to pay 10 to 15 per cent on both labor and material our experience.

GRANT SMITH & Co.

The following from an editorial of the *Engineering Record*, a leading engineering journal, under date of January 19, 1907, seems an impartial review of the subject-matter.

THE BIDS FOR THE CONSTRUCTION OF THE PANAMA CANAL.

The most ardent advocates of the lock plan for the trans-Isthmian ship waterway can scarcely justify from their own point of view a smaller estimated cost than \$150,000,000, after allowing for the increased size of locks advocated by the Consulting Board and a provision for attempting to stop dangerous seepage under the Gatun dam, while, as a matter of fact, a reasonable allowance for the vast uncertainties of that plan is likely to swell the expenditures to possibly \$200,000,000 or even more. When it is borne in mind that this great public work must necessarily involve material political considerations, using that term in a broad nonpartisan sense, the answer to the advertisements for tenders for constructing the canal carries with it not only great engineering interest, but also an interest of even national character.

The number of bidders responding to the request for tenders was four and the percentages bid for the work range from 6.75 to 28. This wide range in the tenders is obviously a measure of the varying estimates of hazard existing in the judgments of the bidders. At first sight it appears remarkable that a bid made upon a percentage basis should afford opportunity for such a range of risk, but an examination of the contract conditions under which the work is to be performed is illuminating. This journal has already expressed full editorial comment upon these conditions, and it is only necessary at this time to indicate the close relation existing between the possible consequences involved in the execution of the contract and the degree of hazard contemplated by at least some of the bidders.

In the first place, the percentage to be received and from which the profit of the contractor is to be derived, is not a percentage of the actual cost of the work, but of a cost estimated by an engineering committee of five members, two only of whom are to be appointed by the contractor. Furthermore, the possible premium or forfeit for early or deferred completion of the contract, respectively, is to be reckoned from the expiration of a period also to be estimated and determined by the same engineering committee. Although there can be no reasonable doubt as to the wisdom of some form of percentage contract for this work, there is abundant room for great uncertainty as to the vicissitudes of the contractor under such general contract conditions as those stated. Under a reasonable and just interpretation and enforcement of those conditions an efficient contractor would suffer no hardships, but it is easy to imagine exigencies which would impose upon him burdens that he might be most anxious to escape; and those exigencies might be intensely aggravated by changing phases of a Federal Administration or by the changing from one technical administration to another. While, therefore, a range of bids from the lowest to the highest of more than four times is certainly extraordinary, the circumstances attending the award of this great contract are of such a character as to explain it fully.

It is probably reasonable to admit that parties qualified to bid for this work are entitled to name what they consider a reasonable compensation for themselves. At the same time, if there were ever circumstances under which the award of a contract ought to be made with a view to the best interests of the public, regardless of the lowest bid, this is preeminently such a case. The Isthmian Canal Commission owes it to the Government to make the award of this work irrespective of the principle of the cheapest construction, no matter what the bond may be or how thoroughly it may imagine the Government's interests to be safeguarded by the terms of the contract. If the lowest bidder can show that his qualifications of plant and methods, previous experience, and financial condition are such as to afford a certain warrant of his capacity to perform the work satisfactorily, he is assuredly entitled to receive the contract, but not otherwise. It is a question on the face of the bids whether so small a percentage as 6.75 is large enough even from the Commission's point of view to justify the residue of hazard, so to speak, under a form of contract designed to eliminate as much uncertainty as possible. It is not uncommon practice for contractors to receive as much as 15 per cent of the actual cost of work with practically no hazard at all. This obviously applies in general to small contracts compared to that under consideration, but in this case, unfortunately, the risks, as far as they exist, are at least in proportion to the magnitude of the work to be done. In fact, there are some risks not at first apparent which might lead to grave complications and affect most seriously a contractor working on a margin little greater than many broker's commissions. It may easily happen that a percentage more nearly that ordinarily received by contractors would in the end be materially more economical for the Government.

NEW HAVEN, CONN., *January 24, 1907.*

DEAR SIR: In doing work on force account basis, or cost plus a percentage, we consider a case where we furnish labor only, a 15 per cent commission only a fair remuneration. In this case we furnish the small tools—namely, picks and shovels; the larger tools are charged by the day and a commission added. On larger work, if we furnish material—that is, cement stone and the like—together with the labor we consider 10 per cent a fair profit above cost. In this case, as in the other, we furnish the small tools only.

We would say that we are doing a great deal of work at the present time on the above basis.

Very truly, yours,

C. W. BLAKESLEE & SONS.

WASHINGTON, D. C., *August 29, 1906.*

SIR: I beg to transmit a proposed invitation for bids to complete the construction of the Isthmian Canal upon a percentage basis, including as a part thereof, for greater convenience of consideration, the terms of a contract to be entered into thereunder.

As to the general advisability of contracting the work of completing the canal, we know from experience that the difficulties to be overcome in the successful prosecution of any great work are in direct proportion to the magnitude and complexity of the enterprise. Furthermore, experience and observation teach that the best results in any field of human activity are accomplished by those most skilled in that particular field of human endeavor.

The physical construction of the Panama Canal is, all things considered, the greatest task of modern times. It is in the highest degree exceptional in magnitude, complexity, and cost. In order, therefore, to most successfully, economically, and quickly finish this great work there should be associated with the Commission the best trained talents of the world in each particular department of the undertaking.

The question may be asked. Why does not the Commission gather together experts in each branch of the work, and with them as heads create its own organizations and do the work by day labor? If the elements of time and cost did not enter so vitally into the undertaking, the Commission might do this; but because of the unprecedented and greatly extended industrial activity of the time, and the consequent violent competition for all classes of superintendents, foremen, subcontractors, skilled mechanics, and even ordinary laborers, it would take the Commission years to secure men and build up departmental construction organizations which would equal in efficiency those now controlled by the leading contractors of the United States.

If, therefore, the Commission, by associating with it the best-trained construction men available, can receive the immediate benefit of the existing organizations which these men control, and which they have spent years in perfecting, and can by reason of their existence complete the canal in shorter time and for less money, is it not the part of wisdom and sound business judgment to do so?

If the wisdom of contracting the work of completing the canal be conceded, the question remains, What form of contract is best?

Whether—

(1) To divide the work into sections and let each part to a separate firm of contractors; or,

(2) To let the entire work to one firm or company on the basis of unit prices; or,

(3) To let the actual work of construction to an association of contractors, each member of which will be an expert in some branch of the work, on a percentage basis.

Before discussing the relative merits of these various forms of contract it may be well to describe the actual work to be done under the agreement.

It is clear that under any character of contract it would be incumbent upon the Government to reserve to itself on the Isthmus the great departments of government, sanitation, and engineering. With a complete staff organized for this purpose it is easy for it to assume other obligations scarcely less essential to the welfare of the work, and, indeed, almost a part of its governmental duties. The control of quarters and of the subsistence department, so directly connected with the health and well-being of canal employees, must be retained directly; or if the subsistence department be turned over to the contractor it must still be

subjected to a rigid supervision. In no event can the contractor be allowed to make of this department an independent source of profit. The retention of the entire commissary department, needed for the supply of the Commission's own men, becomes in this connection further advisable. The elaborate construction plant which the Government has installed and its maintenance render likewise expedient the retention of the department of materials and supplies. The Panama Railroad, with its commercial business extending to all parts of the world, can not wisely be turned over to the contractor. With all these facilities thus retained by the Government, it becomes possible for it, with little additional expense, to supply at a very much lower cost than any contractor could the raw materials for the canal, the careful selection of which, uninfluenced by consideration of profits, is admittedly a matter of first importance.

Upon general grounds of policy and of an immediate and far-reaching economy as well, it therefore seems advisable to confine the work to be done by the contractor to actual construction. These considerations necessarily exclude the idea of contracting for a finished canal as a whole, where the material as well as the labor and all other items entering into the cost shall be furnished by the contractor.

As to the best form of contract applicable to the work of construction proper:

The chief objection to the first proposition, viz, that of dividing the work into sections and letting each part to a separate firm of contractors, is that there are so many perplexing elements and questions entering into this work, such as the control of labor in supply and price, repairs to and maintenance of plant and equipment, and the necessary conflicting relations of so many contractors to the Panama Railroad, as to make the task of preventing the most serious complications between these antagonistic interests under that plan a hopeless one.

There is also the further serious objection that, even after the utmost precautions are taken, one or more of the contractors is certain to prove unsatisfactory, to the confusion and delay of part of the work; and an undue delay to any one part of the work means a delay to the whole.

The objection to the second alternative, viz, that of letting the work as a whole to one firm or company on a basis of unit prices, is that it would cost too much. Any contractor who successfully carries out this great work will be entitled to a fair profit, but to his estimate of cost and fair profit he must add, if bidding on unit prices and honestly intending to carry out his contract, a substantial increment to protect himself against unforeseen contingencies and possibly severe losses. The contract thus becomes to a great extent speculative; but while it certainly is not desired that an undertaking of so much consequence as this should be the contractor's ruin, with a consequent disorganization of the work, neither is it desired that it become a source of enormous and unreasonable profits at the Government's expense, as would be the case if the contingencies the contractor guarded against in his estimates did not occur.

This brings us to the consideration of the third proposition, viz, that of letting the actual work of construction to an association of contractors on a percentage basis.

As outlined in the accompanying papers, this plan contemplates a competition for the work between two or more groups of contractors, each group composed of contractors who have achieved a significant success in at least one of the departments of construction involved in the present undertaking and whose combined experience covers the whole task. By the terms of the invitation proposals by single individuals or firms whose experience and whose organizations must be relatively limited are therefore discouraged.

The contractor who receives the award will be paid an agreed percentage upon the estimated reasonable cost of the actual construction work as fixed by an engineering committee of whom the contractor will name two members and the Commission three. This committee will likewise, from all available data, estimate a reasonable time for the completion of the canal; and a system of premiums and penalties to be paid to the contractor accordingly as the work is completed within or beyond such estimated cost and time is provided for. The amount of percentage to be paid the contractor fixes the basis of competition.

This plan is not novel. It is being employed increasingly by the oldest, largest, and most successful corporations in the country. Its advantages are many:

(1) The Government will get the benefit of the combined efforts of the best and most experienced contractors in the world, each in charge of a department in which he is a specialist and cooperating with other specialists, because:

are sharers in results, to bring the whole work to the earliest and most successful conclusion.

(2) The Government will secure the cooperation of these powerful interests in keeping full the ranks of foremen, locomotive engineers, steam-shovel men, and mechanics of all classes and with the best men of each class.

(3) The Government will know exactly what the work costs in every part, and as it progresses, and will know it is only paying a fair and reasonable profit on same.

(4) The plan offers every incentive for speedy and economical construction by penalizing extra time and cost and rewarding better than contract performance as to either: The Government can well afford to pay bonuses on time, as the annual interest saved to it will after five years be double the amount of bonus paid per year.

(5) By retaining control of the work and exercising strict supervision through its engineering force the Government will protect itself against cheap or faulty construction.

(6) The financial responsibility of the association of contractors will be beyond question, and its bond for \$3,000,000 will amply protect the Government, in so far as a bond can be made a protection.

(7) The contract will be more flexible. It will not be necessary to settle in advance all the main details of the work, which could not subsequently be modified in material respects under any other form of contract save with the consent, perhaps unattainable, of the contractor and his sureties. Wide departures from the general plan may subsequently be made without affecting the real interest of either side. Points which at the outset might otherwise be difficult, if not impossible, to adjust, may be disposed of as they arise.

(8) Friction will be avoided. Claims and counterclaims inevitably attendant upon changes in the plans and specifications, with an accompanying train of contentions, will to a great extent be eliminated.

(9) Probable saving to the Government. No great undertaking, covering a long period of time, has ever been accomplished without the discovery, during its development, of new methods and machinery which have shortened the time and cheapened the cost of the undertaking. American inventive genius is not dead: history will repeat itself; and the time and cost of completing the canal as estimated will in all probability be reduced by the application of new principles which will be discovered as the work progresses. It is conceivable that the Government may receive as the fruits of the system of rewards embraced in this plan savings sufficient to offset the entire percentage required to be paid the contractor on the estimated cost of the work.

(10) Finally, a termination of the contract, should it become necessary, would be less disastrous to the contractor, while an effective resumption of the work would be made easier to the Government, owing to its close relations thereto.

In view of the foregoing considerations I strongly recommend that the inclosed invitation for bids to complete the construction of the canal on a percentage basis be issued.

Yours, very truly,

T. P. SHONTS,

Chairman Isthmian Canal Commission.

The SECRETARY OF WAR.

ISTHMIAN CANAL COMMISSION.
OFFICE OF ADMINISTRATION.
Washington, D. C., October 9, 1906.

INVITATION FOR PROPOSALS TO COMPLETE THE CONSTRUCTION OF THE SHIP CANAL UPON THE ISTHMUS OF PANAMA BETWEEN THE CARIBBEAN SEA AND THE PACIFIC OCEAN.

The Isthmian Canal Commission, under authority of an act of the Congress of the United States, approved June 28, 1902, the Executive orders issued by the President of the United States and the laws enacted by the Isthmian Canal Commission thereunder, and subject to all limitations imposed by the said acts and orders and by law, invites sealed proposals for the completion of the construction upon the Isthmus of Panama of an eighty-five-foot lock level ship canal, having a minimum depth of forty-one feet and a minimum width at the bottom of two hundred feet, between deep water in the Caribbean Sea and deep water in the Pacific Ocean, subject to the provisions stated in the draft of proposed contract annexed hereto.

I.—Basis of proposal.

1. Proposals must be expressed in terms of a percentage upon the estimated cost of the construction, fixed as hereinafter provided, for which the contractor will agree to do the work.

2. Proposals must be inclosed in sealed envelopes marked "Proposals for completing the construction of the Isthmian Canal," and must be filed at the office of the Isthmian Canal Commission, Washington, D. C., not later than 12 m., January 12, 1907, at which time and place all proposals will be opened in the presence of the proposers.

II.—Qualifications of bidders.

1. Any association of American contractors in whatever form organized, legally competent to contract, and having an available capital over all debts and liabilities except those reasonably assumed to furnish the bonds hereafter required to be given, of five million (\$5,000,000) dollars, is qualified to submit proposals.

2. Each proposal must be accompanied by a certified check on or certificate of deposit in a bank or trust company of the United States acceptable to the Isthmian Canal Commission, and made payable to the order of the chairman thereof, or by bond, in good security, in form attached, for the amount of two hundred thousand (\$200,000) dollars. Such checks or certificates may be held, deposited, or collected by the Commission in its discretion. The same, or their proceeds, will be returned to unsuccessful bidders upon the rejection of their bids, and to the successful bidder upon the formal execution of a contract with the Commission in the form hereto annexed, secured by bond with approved security in the sum of two million (\$2,000,000) dollars, for the faithful performance thereof. Should the successful bidder fail to enter into such contract within fifteen days after the acceptance of his bid, such check, certificate of deposit, or the proceeds thereof, shall be forfeited, or the bond substituted therefor shall become forthwith payable, as liquidated damages for said failure.

III.—Bonds.

1. The bidder shall submit with his proposal the names of the surety or sureties whom he proposes to give upon the bond to secure the performance of his contract, accompanied by a statement from them that, should the award be made to the said bidder, they will execute the bond for the performance of the contract in the form hereto annexed. Among the conditions contained in said bond shall be a provision that the surety shall not be discharged by reason of any failure of the Commission to give the contractor or the surety any notice provided for under the proposed contract; a provision that the surety shall not be released by reason of any change in the terms of the said contract, but that any such change shall only be a ground for reducing the liability of the surety under the contract to the extent to which the surety can show that the damages for which it is answerable have been enhanced thereby; and a provision that, in any suit on the bond, any award or assessment of damages by the Chief Engineer shall have the same effect against the surety as against the contractor.

2. If for any cause or at any time the surety or sureties given by the contractor should be deemed insufficient by the Commission, sureties satisfactory to the Commission shall be substituted within thirty days after notice to that effect by the chairman of the Commission.

IV.—General directions to bidders.

The Commission in selecting the bidder to whom it will award the contract hereunder, will exercise its discretion for the purpose of securing a contractor who shall be capable in its judgment to properly and efficiently fulfill the conditions and requirements of the proposed contract. To aid the Commission in the selection of such contractor, each bidder must fully state what organization, facilities and experience he commands for undertaking the work, and with what organizations and credit or means of credit he will carry out such contract. The names and addresses of all persons interested with the bidder in his proposal shall be submitted with his proposal. If partnerships are interested, the names and addresses of the firm members shall be given. If corporations are interested, a certificate showing the place of organization of the corporation, the amount of capital stock paid in, the excess of its assets over all liabilities and the names and addresses of its officers and directors shall be furnished. The proposal shall also state that it is made without connection with any other bidder; that it is in all respects fair and free from collusion, and that no Member of Congress,

official, or employee of the Government of the United States, of the Canal Zone, or of the Isthmian Canal Commission is interested therein; and it must also be sworn to in the form annexed before a notary public or other officer authorized to administer oaths.

V.—*Information furnished by Commission.*

Plans and specifications, in so far as they have been adopted, will be supplied prospective bidders upon demand, but must be regarded as a general guide only and not as conclusively binding upon the Commission. The Commission will also afford the freest opportunities, both in the United States and on the Isthmus, for the investigation of the Commission's working force and the terms under which each member thereof is employed, for the inspection of all contracts entered into or obligations assumed by the Commission, and for the examination of the state of the work and the conditions upon which it may be expected to be carried on.

VI.—*Rejection of bids.*

The Commission reserves the right to reject any bid. In case none of the bids is satisfactory the Commission will reject all and either throw open the proposals to foreign competition or proceed with the work without contract.

T. P. SHONTS, *Chairman.*

PROPOSAL.

The ISTHMIAN CANAL COMMISSION,
Washington, D. C.

SIRS:

_____ hereby propose to complete the construction of a ship canal upon the Isthmus of Panama, between the Caribbean Sea and the Pacific Ocean, subject to all the conditions and requirements contained in the circular invitation of the Isthmian Canal Commission, as reissued December 15, 1906, and the terms and conditions contained in the form of contract thereto annexed, which are made a part of this proposal, for _____ per centum upon the estimated cost of the construction to be fixed as in said contract provided; and _____ agree that if this proposal should be accepted, _____ will, within fifteen (15) days thereafter, enter into a contract for the completion of the said canal secured by bond as in the forms annexed.

The following representations are made in compliance with the requirements of your invitation for proposals, and are warranted to be correct:

(1) Names and addresses of all persons interested in this proposal.

[If partnerships are interested, give the names and addresses of the firm members; if corporations are interested, give the names and addresses of the officers and directors.]

(2) Financial standing, credits, and means of credit of individuals, partnerships, and corporations interested in this proposal.

[If a corporation is interested, a copy of the articles of association should be attached, together with a certificate showing the amount of capital stock paid in and the excess of assets over all liabilities. If a partnership is interested, a certificate should be attached showing the capital of the partnership and the excess of its assets over all liabilities. Similar detailed information should also be furnished as to individuals interested in the bid.]

(3) The facilities for prosecuting work commanded by individuals, firms, or partnerships interested in this proposal and their past experience in carrying out substantial construction contracts.

This proposal is made without connection with any other bidder, is in all respects fair and free from collusion, and no Member of Congress, official or employee of the Government of the United States, of the Canal Zone, or of the Isthmian Canal Commission is interested herein.

This day, before me, a notary public for _____, appeared _____, to me personally known, and known by me to be the individual whose signature is annexed to the foregoing proposal, and said that the statements therein contained are true.

Witness my hand and seal this _____ day of _____, 1907.

_____, N. P.

(When surety company is surety.)

BOND ON PROPOSALS.

Know all men by these presents, That we _____ as principal —, and _____ (name of surety company) a corporation existing under the laws of the State of _____ as surety, are held and firmly bound unto the United States of America, in the sum of two hundred thousand dollars (\$200,000), for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

CONDITIONS.

The conditions of the above obligation are such, that any award made by the Isthmian Canal Commission to the above-bounden principal, under a public invitation for completing the construction of a ship canal upon the Isthmus of Panama, shall be accepted by said principal forthwith, and the said principal shall enter into a contract for the completion of the construction of said canal, and give bond with good and sufficient sureties, to be approved by the Commission, for the faithful performance thereof in the forms annexed to said invitation. And the undersigned bind themselves, their heirs, executors, administrators, and successors, in case the said principal shall fail to enter into such contract and furnish such bond within fifteen (15) days after such award, to pay the said Isthmian Canal Commission for and on behalf of the United States of America two hundred thousand (\$200,000) dollars as liquidated damages for such failure.

In witness whereof, the principal hereto has caused the same to be executed by its proper officer thereto duly authorized under a _____ of its^a _____, dated the _____ day of _____, 190—, and the surety hereto has caused the same to be executed by its proper officer thereto duly authorized under a _____ of its^a _____, dated the _____ day of _____, 190—.

Executed in triplicate this _____ day of _____, 190—.

Attest:

[SEAL.]

[SEAL.]

By _____
as its _____
(Principal.)
By _____
as its _____
(Surety.)

FORM OF CONTRACT.

An agreement for the construction of a lock-level ship canal upon the Isthmus of Panama between deep water in the Caribbean Sea and deep water in the Pacific Ocean, entered into this _____ day of _____, 1907, between the United States of America by and through the Isthmian Canal Commission, hereinafter called the Commission, and _____, the accepted bidder, under a public invitation for proposals to complete the construction of the said canal, hereinafter called the Contractor.

ARTICLE I.—*Work to be done by the Contractor.*

The work to be done by the Contractor shall be construction work proper, and shall comprise the following items and all work of actual construction necessarily connected therewith:

1. Dredging, clearing, and excavating canal from the locks at either end of the canal to deep water.

^a Board of Directors or other governing body of the principal. A copy of the by-law or of the record of proceedings of the governing body of the corporation, showing the authority of the officer or officers executing the bond for the principal, *must* accompany or be attached to the bond—the same to be certified by the custodian of such records under the corporate seal, to be a true copy. If the authority was given by resolution, enough of the records will be copied along with the resolution to show that it was adopted, and the entire matter copied (not simply the resolution) will be certified to be a true copy. If the authority is a by-law, the wording of the executing clause will be altered accordingly.

^b President or other officer authorized to sign for the principal. A copy of the record of the selection of the officer or officers executing the bond for the principal, certified by the custodian of such records, under the corporate seal, to be a true copy, *must* accompany or be attached to the bond, unless the resolution authorizing its execution gives the names of the officer or officers, in which case no other evidence of their official character is required.

2. Construction of the proposed dam at Gatun and of the dam or dams at or near the southern or Pacific end of the canal.

3. Construction of all locks and regulating works at either end of the canal and wherever located.

4. Dredging, clearing, and excavating canal from the dams at either end to the Culebra Cut.

5. Excavation and completion of the Culebra Cut and revetments and the approaches thereto.

6. Removal and reconstruction of the Panama Railroad upon lines of relocation to be fixed by Chief Engineer of the Commission.

7. Removal and transportation of all spoil of whatsoever character, whether by land or water, to such points or places, and the disposition thereof in such manner, as may be designated by the said Chief Engineer.

8. The quarrying, transportation, and dressing of all stone required for masonry work, the manufacture and transportation on the Isthmus of concrete, the transportation and preparation on the Isthmus of timber, or other materials, except finished metallic parts, used in the proper execution of the above work and constituting a part of the completed structure and the appliances adjunct thereto and necessary to the proper maintenance and operation thereof.

9. All work herein required to be done shall be performed according to the plans and specifications furnished by the Chief Engineer of the Commission; but said plans and specifications will be subject at any time to such alterations and changes as may be deemed advisable by the Chief Engineer or the Commission.

ARTICLE II.—*Extra work.*

Should the Commission, prior to the completion of the canal, decide to construct breakwaters at either end of the canal, additional reservoirs or dams, or additional auxiliary works of any character, the Contractor shall have the right to and, if required, shall construct the same upon the terms upon which he agrees hereunder to perform the work upon the canal proper; but a supplemental estimate of the cost and time for the completion of the said additional works shall be made by an engineering committee, such as is hereinafter provided for, in the same manner as the estimate is provided to be made by the original engineering committee of the cost and time required for the construction of the canal proper.

ARTICLE III.—*Plant and facilities furnished by the Commission.*

The Commission agrees to furnish, free of cost to the Contractor, plant, facilities, and means as follows:

1. All locomotives, cars, steam shovels, drills, cranes, dredges, tugs, scows, dumps, rails, ties, and track materials, electric light or power plants, and other machinery of a substantial character required to efficiently carry on the construction work, and necessary work animals and equipment; but not hand tools or machinery of a minor character usually carried in stock, save through its department of materials and supplies as hereinafter provided.

2. All raw materials put into the work, the machinery and appliances necessary for the operation and protection of the locks or other parts of the canal, but not the treatment, shaping, finishing, transportation upon the Isthmus, or incorporation into the work of such materials, nor the erection, or assembling of such machinery upon the Isthmus; cement, explosives, oil, coal, fuel, and at the election of the Commission, electricity for the proper operation of any rolling or floating stock or other machinery used by the Contractor in the performance of his work upon the Isthmus: *Provided, however,* That the Commission may, in its discretion, transfer to the Contractor the manufacture of cement or explosives, if it should be found that either can be properly made upon the Isthmus, and the manufacture upon the Isthmus of metallic parts of the locks and auxiliary works of the canal, the cost of such manufacture to be added in such case to the total estimated cost of the canal as hereinafter provided to be arrived at.

3. Construction tracks already built in a condition not less efficient than now existing; but additional construction tracks, including the relocation of those turned over to the Contractor, must be built by the Contractor.

4. Quarters for the proper housing of all necessary employees of the Contractor; but the Commission shall be allowed reasonable time for the construction of quarters additional to those now existing.

5. Warehouses for the storage of the Contractor's tools and supplies.

6. Hospitals and hospital service for sick employees of the Contractor.

7. Office buildings for the accommodation of the Contractor's clerical and administrative force actually employed upon the Isthmus in connection with the construction of the canal.

8. Transportation of the Contractor's employees, employees' families, and supplies over the Panama Railroad, and employees and employees' families over the Panama Railroad Steamship lines at rates not greater than one-half the regular published tariff rates. The Contractor shall also be at liberty in all cases, where the transportation facilities afforded by the Panama Railroad Steamship Line are not sufficient for the needs of the Contractor's business, to employ such other lines of transportation as he sees fit, until such time as the Panama Railroad Steamship Line is in condition to resume or furnish sufficient service to the Contractor.

9. Free telegraph and telephone service upon the Isthmus necessary to the actual efficient discharge of the Contractor's business.

10. Free trackage rights over the Panama Railroad Company's tracks for the work trains of the Contractor, from canal cuttings to dump grounds, or docks when necessary, and return; and as a part of this obligation, the Commission will assume the cost of constructing such additional trackage, yards, or other facilities of the Panama Railroad as may be essential to the proper execution by the Contractor of the work herein provided for, the amount and character of such work being always subject to the direction and approval of the Chief Engineer of the Commission.

11. Water for offices, engines, shovels, drills, dredges, and other purposes for which it is reasonably required for the prosecution of the work.

12. Commissary stores which will be open to the Contractor and his employees upon the same terms as to the Commission's own employees. The Commission will also supply from its other departments, so far as it may have the same available, tools and supplies which it is not the duty of the Commission to furnish free hereunder upon the terms of cost plus the usual handling charges.

13. Mess-house privileges for Contractor's employees equal to those at any time extended to the employees of the Commission. The Contractor shall also have the privilege of taking over and operating upon his own account such mess houses, either directly or by contract with a third party, subject in all cases to the direction and approval of the Chief Engineer with respect to prices, privileges, and general methods, and subject to the duty to furnish to the Commission's employees accommodations in all respects equal to those furnished to the Contractor's own employees. Mess or lodging houses furnished by the Commission to the Contractor, or any subcontractor, shall be subject to daily inspection by the Chief Engineer or his agents, and all directions, and modifications which the Chief Engineer may deem necessary for the proper housing and feeding of such employees, shall at once be carried into effect by the Contractor. Any profit or loss arising from the operation by the Contractor of mess houses, shall be debited against or credited to the Contractor.

14. The equipment which the Commission under this article agrees to supply it will also maintain; and it will to that end operate and properly furnish and supply such machine and other shops as may be necessary, but this obligation shall not extend to the making of repairs which are ordinarily known as outside, yard, or running repairs which must be made by the Contractor.

15. The Commission, to the extent to which its machine shops may be adequate, will manufacture or repair for the Contractor such minor machinery and tools as can be economically and conveniently manufactured or repaired at the said shops, charging the Contractor therefor actual cost plus fifteen per cent.

16. The judgment of the Chief Engineer of the Commission shall in all cases be controlling as to the extent and character of the facilities to be supplied by the Commission under this article.

ARTICLE IV.—*Functions reserved to the Commission.*

The Commission will retain control of—

1. All engineering work in connection with the construction of the canal, including surveys and the general direction and control of the construction work to be done by the Contractor with the right to fully inspect same.

2. Municipal engineering, including the construction of waterworks, sewers, roads, and streets wherever located.

3. The governmental and police department.

4. The sanitary and hospital department.

5. The commissary department.

6. Mess houses, except in so far as the same may be taken over by the Contractor as hereinbefore provided for, and the inspection of the same in that event.

7. Quarters.

8. The construction and maintenance of buildings.

9. The operation of the Panama Railroad.

10. An auditing department, which shall have control over the books and accounts of the Contractor, with authority to direct the manner in which all accounts relating to expenditure upon the canal construction by the Contractor shall be kept and to which department the books and accounts of the Contractor shall at all times be open.

11. A department of materials and supplies.

12. And generally, all powers, rights, and privileges not herein specifically ceded to the Contractor.

ARTICLE V.—To be supplied by the Contractor.

1. The Contractor shall furnish and employ all labor, foremen, superintendents, clerks, general office staff, and furnish all tools and machinery of a minor character necessary to efficiently operate the plant and carry out the work to be undertaken hereunder.

2. He shall make all repairs commonly known as outside repairs upon equipment and machinery employed by him.

ARTICLE VI.—Obligations to be assumed by Contractor.

1. The Contractor shall begin the actual work of construction within sixty days from the signing of this contract.

2. He shall take over into his own employment all employees on the Isthmus upon the pay rolls of the Commission at the time that he begins work, except such employees as the Commission may reserve to its own use. Employees on what is known as the "gold list" taken over by the Contractor under this article shall not be discharged nor shall their salaries be reduced except for cause, and then only when their discharge or salary reduction is approved by the Chief Engineer of the Commission.

3. He shall assume and carry out all contracts that may have been entered into by the Commission for the supply and employment of foreign or other labor, and shall execute in connection therewith such agreements or papers as may be required by the Commission.

4. He shall scrupulously abide by all the rules and regulations that may be put into force from time to time by the sanitary department of the Commission, and shall issue all orders required of him by the Commission for the proper observance and enforcement of said rules and regulations.

5. He shall, on written notice from the chairman or Chief Engineer of the Commission, discharge for cause any employee who may be in his service.

6. He shall comply with all laws of Congress or of the government of the Canal Zone with respect to the hours of labor, character of employees, and other matters in so far as the same may be applicable in the work undertaken by him; and all provisions of law bearing upon the performance by the Contractor of this contract shall be regarded as incorporated into and made a part hereof, whether expressed or not.

7. He shall perform all work embraced in this contract in the most thorough and workmanlike manner, and subject to the approval of the Chief Engineer of the Commission, with the highest regard for the safety of life and property, and in accordance with the plans, specifications, and drawings furnished by the Chief Engineer of the Commission, and subject to his orders and directions.

8. No material shall be put into the work by the Contractor of which the Chief Engineer may disapprove; but failure by the Chief Engineer to disapprove of unsound materials or the improper preparation or use of material shall not exempt the Contractor from liability to the Commission for damage or extra expenditure occasioned thereby, unless the Contractor in doubtful cases shall have requested of the Chief Engineer in writing a definite approval of any particular materials or any specified preparation or use thereof and the Chief Engineer, after a reasonable time, has failed to act upon the request. The cost of replacing or repairing damages due to the use of defective materials or any specified preparation or use thereof after the Contractor has discharged his full duties under this section shall be reimbursed the Contractor as a part of the current payments to him, and shall be added to the estimated cost of completing the canal as fixed by the engineering committee hereinafter provided for.

9. He shall carry on the construction work, if required, during the night as well as during the day, and in such shifts as the Chief Engineer shall direct.

10. He shall, subject to such indemnity as is provided for in Article VII, assume and be responsible for all just legal claims for injuries or wrongs inflicted upon persons and property by his own act or that of any of his employees, except property and land damages necessarily occasioned by the orderly construction of the canal and auxiliary works.

11. He shall not assign or transfer this contract or any interest therein without the written consent of the Commission.

12. He shall not enter into subcontracts for the performance of the work to be undertaken hereunder without the written consent of the Commission; and as a condition precedent to seeking the consent of the Commission shall furnish the Commission with a written statement as to the nature of the proposed subcontract and the leading provisions thereof, and with detailed information concerning the proposed subcontractor or subcontractors their financial standing and resources their facilities for prosecuting the work of canal construction, and such other information as may be required of him with respect to them or any of them.

13. In all cases where subcontracts are entered into with the approval of the Commission, and bonds are taken by the Contractor to secure the performance of such subcontracts, such bonds shall be taken subject to assignment to the Commission, and shall be so assigned, as additional security for the performance by the Contractor and subcontractor of this contract.

14. He shall maintain upon the Isthmus an agent upon whom all notices required or proper to be served hereunder upon either himself, his sureties, or any subcontractor, may be served, and who shall, in addition, be authorized to accept service of legal process on behalf of himself, his sureties, or any subcontractor at the suit of the Commission or any private person.

15. He shall be responsible to the Commission for all injuries or damages inflicted upon the plant with which he may be intrusted by the Commission and upon the canal or any of its auxiliary works by the negligence of himself or any of his employees or subcontractors, or the employees of such subcontractors; but shall not be responsible for any depreciation in the value of the plant or material intrusted to him or any of his subcontractors or employees by the Commission, attributable to ordinary wear and tear. Damages inflicted under this clause shall be estimated by the chief engineer, subject only to revision by the chairman of the Commission, and the same shall be deducted from the percentage earned by the Contractor under this contract, if any, or if no percentage shall have been earned, the said damages shall be paid by the Contractor or his surety.

ARTICLE VII.—*Payments.*

1. Payments will be made to the Contractor by the Commission on or about the fifteenth day of each month in current coin of the United States or its equivalent, either in Panama, Washington, or New York City, as the Contractor may elect, covering the cost of the actual construction work done by the Contractor or his subcontractors upon the canal during the preceding calendar month, including therein cost of labor and of procuring labor, superintendence and clerical service on the Isthmus, transportation of employees whose pay is chargeable against the Commission hereunder to and from the Isthmus, overtime paid to employees, wages paid to employees when sick, if allowed by the Chief Engineer, current purchases of tools and repairs made by the Contractor, and the actual cost to the Contractor of any materials put into the work; and excluding the cost of organization, administration, legal and general expenses of the Contractor, interest, taxes, cable service, commissary purchases and the cost of running the mess houses, should the Contractor take over the same, and all expenses to which he shall have been put by reason of his own negligence or inefficiency, or by reason of the supply of any unsound or imperfect materials or any imperfect preparation or use of material contrary to the provisions of this agreement, and all expenses not directly connected with the construction work which he may have incurred on his own account: *Provided, however,* That two-thirds of the actual cost, including legal expenses, to the Contractor or subcontractors of meeting valid legal claims of employees or others for damages for injury or death due to the actual work of canal construction, or of compromising, when approved by the Commission, any claims for such damages shall be included in the monthly payments above provided for. Where subcontractors are employed by the Contractor upon a percentage basis, only such payments will be made to the Contractor on account of such subcontractors as would be made in the event the Contractor had done the work directly.

2. Payments will be made upon certificates signed by some designated official of the Contractor upon the Isthmus, and the Chief Engineer of the Commission, accompanied by vouchers showing in detail such expenditures as are authorized under this article.

ARTICLE VIII.—*Final compensation.*

Upon the completion of the construction work upon the canal proper, and the final acceptance by the Chief Engineer or the Commission of the work done by the Contractor, there will be paid to the Contractor — per centum upon the total estimated cost of construction as fixed by the engineering committee under Article IX hereof, subject to the following conditions:

1. If the total actual cost of the construction upon the basis prescribed in Article VII shall exceed the total estimated cost of construction as fixed by the engineering committee as hereinafter provided, there shall be deducted one-half per centum from the per centum otherwise payable to the Contractor for each five million (\$5,000,000) dollars, or half fractional part thereof, by which the actual cost shall exceed the estimated cost. If the actual cost shall fall below the estimated cost, the Contractor shall receive in addition to the stipulated percentage upon the estimate of the engineering committee one-third of the difference between such actual cost and the estimated cost. In no event shall the Contractor receive a percentage upon any part of the actual cost exceeding the estimated cost, unless the estimated cost be increased, as herein provided.

2. If the construction work upon the canal proper herein provided for shall not be completed by the Contractor within the time fixed by the engineering committee, the Contractor shall forfeit as liquidated damages for each month that the work of construction shall exceed the estimated time for the construction one hundred thousand (\$100,000) dollars; if it shall be completed by him in less time, he shall be paid a premium of one hundred thousand (\$100,000) dollars, in addition to all other compensation earned hereunder, for each month less than the estimated time in which he shall have completed it: *Provided, however*, That the damages assessed under this section shall not in any event exceed the percentage otherwise payable to the Contractor and the amount of the Contractor's bond to secure performance.

3. If, however, at the end of any year of the Contractor's work, or at the option of the Chief Engineer at the end of any shorter period, the cost of construction has not exceeded nor the rate fallen below the proportionate estimated cost or rate of construction, the Commission will pay to the Contractor two-thirds of the agreed percentage upon the actual cost to such date; but if at any subsequent time the cost should exceed or the rate fall below the proper proportionate cost or rate, no further portion of the agreed percentage shall be paid until the arrears of cost and rate are made up.

4. No allowance shall be made the Contractor for any interruption or suspension of the work hereunder, unless the same shall be due to an act of God or a public enemy, or an order of the Commission, or failure or unreasonable delay of the Commission to maintain or furnish such plant or materials as it agrees hereunder to maintain or furnish, or failure to fairly perform any material act which hereunder it agrees to perform. Where the suspension or interruption of work is due to any of the last-mentioned causes the time of suspension or interruption shall be added to the estimated time for the construction of the canal.

5. If any suspension of the work should be due to a default or order of the Commission, and such suspension should exceed one year, the contract may be treated as terminated by the Contractor, who shall thereupon become entitled to receive such percentage as he may have earned upon the work actually done. At such time also an estimate shall be made by the Chief Engineer to ascertain whether the work to such time has proportionately exceeded or fallen behind the estimated cost and time; and proportionate profits and premiums or deductions shall be credited to or charged against the Contractor accordingly.

6. All questions with reference to the percentage or profits earned by or payable to the Contractor hereunder, the deductions therefrom, or premiums thereon, or the increase of the estimated period of construction, attributable to the above-named causes, shall be determined by the Chief Engineer of the Commission, subject only to appeal to the chairman of the Commission.

ARTICLE IX.—*Method of estimating cost and time of construction of canal.*

1. Within ten days from the execution of this contract the Contractor shall nominate two engineers of approved standing, who, together with three engineers to be nominated by the the Commission within the same period of time, shall constitute an engineering committee. One of the three engineers nominated by the Commission shall be the Chief Engineer of the Commission, who shall be the chairman of the engineering committee. The said engineering committee thereupon, upon a consideration of all available data, and, if in their judgment it be deemed expedient, upon personal investigation of the work to be performed upon the Isthmus and of the conditions surrounding the same, shall estimate the total reasonable cost of completing the construction of the canal as herein outlined and as may be more particularly defined in the plans and specifications for the construction of the canal submitted to said committee by the Commission. In arriving at the said estimated reasonable cost the committee shall carefully take into account all the services to be performed and the means, facilities, and materials to be supplied by the Commission in the construction of the said canal, as hereinabove provided for, and shall exclude from the estimated cost the value

of same and all interest charges of whatsoever character, cost of right of way and land damages, and all expenses incurred by the Commission in discharging the portion of the work reserved to it, and the organization, administration, legal, general, and other expenses of the Contractor for which he is not entitled to be reimbursed under the terms of Article VII. and shall make no allowance for losses or damages, legal or otherwise, attributable to the acts of himself or employees and subject to be sustained by him, nor any allowance for contingencies.

2. The engineering committee shall likewise, from similar data and investigations, estimate the reasonable time for the construction of the canal with the facilities afforded to the Contractor under the terms of this contract. In fixing the said time they shall assume that the Contractor will at all times employ, on a basis of eight hours a day for American labor and ten hours a day for foreign labor, a force of laborers and employees upon the actual work of construction or the superintendence thereof equal to the number that can be efficiently employed, having due regard to the progressive condition of the work, and that he will be supplied by the Commission with the plant hereinbefore described necessary to fully employ his working forces.

3. The committee shall also submit alternative estimates of time and cost, based upon night work and two shifts a day of ten hours each for foreign and eight hours for American labor, and also upon continuous work with three shifts a day of eight hours each, and shall formulate a rule by which these estimates may be increased, or diminished, according to the time that the work may be carried on upon one or the other of these several bases.

4. If, at any future time, the plans and specifications for the construction of the canal, as submitted to the said engineering committee, shall be materially altered in any respect, or if it shall be made to appear to the President of the United States that the estimates of the committee are based upon physical data so erroneous as to materially affect the estimated cost and time of construction, or that the estimates have become substantially inequitable by reason of the intervention of an act of God or a public enemy, or for any other material cause which shall not have been taken into account by the engineering committee in making their estimate, and for which the Contractor is not responsible, or that the annual average scale of wage, after the exercise of due economy upon the part of the Contractor substantially exceeds or falls below that taken as a standard by the engineering committee in making their estimates, and the estimates can not be amended by the application of any rule formulated by the committee under the requirements of this contract, the said committee, or a new committee formed in the same manner as the original committee, shall, upon written notice of either the Commission or Contractor, provided the same be given within sixty (60) days, or in the proper case upon notice from the President, promptly convene, and modify the estimate as to the cost or time, or both, by adding to or taking therefrom the cost or time fairly attributable to the changes made in said plans and specifications, to the use of such erroneous data, to such act of God or a public enemy, to such other cause, or to such change in the average scale of wage.

5. The construction of breakwaters, either to protect the Atlantic or the Pacific end of the canal shall not be included in the estimate of the said committee of the cost and time of the construction of the said canal. Should the Commission subsequently decide upon the construction of breakwaters or upon the construction of any additional reservoirs or dams or other works, not provided for in the plans and specifications at the time of their submission to the engineering committee, supplemental estimates shall be made by the committee, or a similar committee to be appointed in its place, of the cost and time required for the construction of such breakwaters, reservoirs, dams, or other works upon the same basis as the estimates are made for the time and cost of the completion of the canal proper.

6. The estimates of the time and cost of the main canal construction work herein contemplated shall be completed, if possible, but with due regard to the importance of the subject, within ninety (90) days, and in any event within six (6) months from the signing of this contract, and shall fix the cost and time as of the date when completed. From the estimated cost, the cost of any construction work upon the canal done by the Commission after such date shall be deducted, and to the estimated cost the cost of any work done by the Contractor before such date shall be added.

ARTICLE X.—*Default by the Contractor.*

1. Should the Contractor at any time fail to observe any of the material obligations of this contract, or should he fail at any time to proceed with reasonable diligence in the construction of the canal so that after executing delays due to acts of God or public enemies, or an order or default of the Commission, or to any other cause which under the terms of this agreement shall entitle the Contractor to an extension of the estimated time for completion, the canal, in the judgment of the Chief Engineer, can not be completed within twenty (20) per centum more than the estimated time; or should the Con-

tractor fail to keep employed at work upon the canal a force of workmen sufficient in the judgment of the Chief Engineer to complete the canal within twenty per centum more than the estimated time, or should the Contractor within three months after notice from the Chief Engineer fail to increase the working force to any extent prescribed by the Chief Engineer within the number that can be efficiently employed upon the said work, having due regard to its progressive condition; or should the work done by the Contractor in the judgment of the Chief Engineer be done in an unworkmanlike manner, or in violation of the directions of the Chief Engineer; or should any materials put into the dams, locks, auxiliary works or other parts of the canal by the Contractor contrary to the provisions of this agreement be unsound or defective, and such as in the judgment of the Chief Engineer are calculated to impair the structural strength and efficiency of the Canal; or should the Contractor's current actual cost of construction at any time, in the judgment of the Chief Engineer, exceed by more than twenty per centum that part of the total estimated cost of construction properly proportionable thereto; or should the Contractor become insolvent or pass into the hands of a receiver; or should the Contractor fail to satisfy or secure any judgment that may be rendered against him within thirty days after the same shall go to execution, or become incapacitated for the proper discharge of his duty under this contract, by reason of legal or other complications, the Commission, through the chairman, may by ten days' written notice served upon the Contractor declare the Contractor to be in default.

2. In any case in which the Contractor is declared to be in default, as aforesaid, the Commission may (1) either allow the Contractor to resume work upon the canal, subject to such conditions, forfeitures, and penalties as it may impose, or (2) take possession of and assume control and direction of the work of the construction of the canal, and may complete it either directly through its own agents or employees, or (3) may recontract any unfinished work privately or by public advertisement upon the basis herein outlined, or on any other basis, to any contractor or contractors that it may select; and in any event may charge against the Contractor and his sureties the additional cost of doing the work which the Contractor agrees under his contract to do, and may collect the same from the Contractor or his sureties, as damages, and should the construction of the canal be delayed beyond the estimated time by the default of the Contractor, may collect, in addition, from the Contractor or his sureties for each month in excess of the estimated time the liquidated damages provided for under this contract.

3. And in any and all of the foregoing events, the Commission shall have the right to withhold, pending the final adjustment, any balance otherwise due the Contractor, and proceed in the courts of the United States against the Contractor or his sureties forthwith, or at any later period that it may deem advisable, to collect any damages that it may be entitled to either in law or in equity, whether damages specified herein or damages additional thereto allowed by law: *Provided always*, That the aggregate damages for which the Contractor may be held liable under this contract shall not exceed the percentage and premiums otherwise payable to the Contractor and three million (\$3,000,000) dollars in addition thereto.

4. The Contractor and his sureties covenant that in all cases where the Commission so elect, the damages sustained by reason of the default of the Contractor may be assessed by the Chief Engineer, subject to review by the Chairman of the Commission; and the final award of damages as determined by the Chief Engineer or Chairman shall be paid to or recovered by the Commission from the Contractor or his sureties, under the terms of the Contractor's bond, or the Commission or the United States may sue to recover the actual damages sustained, treating the said award as *prima facie* evidence of the damages sustained and throwing upon the Contractor and his sureties the burden of showing that the said award was the result of fraud or collusion upon the part of the Chief Engineer or Chairman, or that it was arrived at contrary to the provisions of this contract.

ARTICLE XI.—*Termination of contract when Contractor is not in default.*

1. Irrespective of any default upon the part of the Contractor, the Commission reserves the right to terminate this contract at any time in its discretion upon the terms of paying to the Contractor the entire cost of the work performed by him to such time, ascertained in the manner hereinbefore provided, the percentage earned by him upon such cost and two hundred and fifty thousand (\$250,000) dollars additional: *Provided*, That the total amount payable to the Contractor, including debits against him authorized under the contract, shall not in any event be less than five hundred thousand (\$500,000) dollars, and *provided further*, that should the Contractor have done at such time, in the judgment of the Chief Engineer, less than one-third of the work contracted to be done, he shall be paid one (1) per centum additional. At such time also an esti-

mate shall be made by the Chief Engineer to ascertain whether the work to such time has proportionately exceeded or fallen behind the estimated cost and time, and proportionate profits and premiums or deductions shall be credited to or charged against the Contractor accordingly.

ARTICLE XII.—*Decision of the Chief Engineer.*

The decision of the Chief Engineer in the absence of fraud, misconduct, or a palpable error apparent on the face of any decision or award, and to the extent that it shall not be modified by the Chairman of the Commission, shall be conclusive and binding upon the Contractor: (1) Upon all questions submitted under the foregoing provisions of this contract to his determination. (2) Upon the question whether there has been a substantial breach of contract upon the part of the Contractor. (3) Upon the question whether the Contractor is in default. (4) Upon the character and extent of the damages sustained by the Commission or the United States from any breach of contract or default upon the part of the Contractor.

ARTICLE XIII.—*Definitions.*

1. "Commission" means the present Isthmian Canal Commission, or any successor thereof, or any individual, officer, or department of the United States to whom or to which the duty of constructing or arranging for the construction of the Isthmian Canal may hereafter be intrusted by law or executive order; and "Chairman of the Commission" means any successor exercising the Chairman's present functions. All action reserved to the Commission hereunder may be executed and carried out by its Chairman. Any rights secured to the Commission hereunder shall also be deemed rights secured to the United States of America, and, if that course be deemed advisable, may be enforced in the name of the United States.

2. "Chief Engineer" means the Chief Engineer of the Isthmian Canal Commission, or any successor thereof, or any deputy or substitute that may be designated by the said Commission, or its successor. In all cases where action is provided to be taken by the Chief Engineer, similar action taken by the Commission or its successor shall be equally effective.

3. "Engineering committee" means either the original engineering committee, or any similar committee that may be appointed in its place; it not being contemplated that the engineering committee will be maintained as a permanent organization.

4. "Contractor" means contractors, or the employees of any contractor, or any subcontractor or employees when doing the work of the principal contractor, or the successors or assigns of the Contractor.

5. "He," "his," or "him" means in the proper case "it" or "its," "they," "their," or "them."

6. "Surety" means "sureties," and whatever is required of any one surety shall be required of all.

In witness whereof, the Isthmian Canal Commission and _____ have caused this contract to be executed in triplicate the year and date first above mentioned.

Attest:

[When both principal and surety are corporations.]

BOND FOR FULFILLMENT OF CONTRACT.

Know all men by these presents, that _____, a corporation existing under the laws of the State of _____ as principal, and _____, a corporation existing under the laws of the State of _____ as surety, are held and firmly bound unto the United States of America in the penal sum of _____ dollars (\$_____), for which payment, well and truly to be made, we bind ourselves, and our successors, jointly and severally, firmly by these presents.

Given under our hands and seals this _____ day of _____, nineteen hundred _____.

CONDITIONS.

The conditions of the above obligation are such that if the said above-bounden _____, or its successors, shall well and truly, and in a satisfactory manner fulfill the contract hereto annexed, for the completion of the construction of a ship

canal upon the Isthmus of Panama, and shall promptly make payments to all persons supplying him with materials and labor in the prosecution of the work contemplated by the contract, this obligation shall be void, otherwise shall remain in full force and virtue.

It is further agreed that the surety hereon shall not be discharged by reason of any failure of the Commission to give the Contractor or the surety any notice provided for under the said contract, and that the surety shall not be released by reason of any change in the terms of said contract, but that any such change shall only be a ground for reducing the liability of the surety under the contract to the extent to which the surety can show that the damages for which it is answerable have been enhanced thereby; and that in any suit hereon any decision or assessment of damages by the chief engineer, to the extent that it may not be modified as provided in said contract, shall have the same effect against the surety as against the Contractor.

In witness whereof, the principal hereto has caused the same to be executed by its proper officer thereto duly authorized under a _____ of its _____ dated the _____ day of _____, 190____, and the surety hereto has caused the same to be executed by its proper officer thereto duly authorized under a _____ of its _____ dated the _____ day of _____, 190____.

Executed in triplicate this _____ day of _____, 190____.

Attest:

_____ [SEAL.]

By _____
as its _____
(Principal.)

_____ [SEAL.]

By _____
as its _____
(Surety.)

[Indorsement.]

Proposal for completion of construction of ship canal upon the Isthmus of Panama.
Submitted by _____.

GENERAL INSTRUCTIONS TO BIDDERS.

1. Postage must be prepaid in full on all bids mailed to this office.
2. No person in the service of the Isthmian Canal Commission will render assistance in the preparation of proposals or supply information with respect to any actual or prospective bidders.
3. Proposals should be submitted on blanks furnished herewith. They must be signed by the bidder with his usual signature in full, and should give his business address. If proposals are made by a firm, the firm name should be signed by one of the members; if by a corporation, they should be signed with the name of the corporation, followed by the signature of an officer, who should file therewith evidence of his authority to sign the corporate name.
4. Bidders are warned that any modifications of conditions or requirements, or failure to comply with the requirements of the invitation, will subject the proposal to the risk of being considered informal, at the option of the Commission.
5. Before, but not after, the time for opening bids any bidder may, by written notice, withdraw his bid, which in that event will be returned to him unopened.
6. The Commission will not permit changes in bids after the hour for opening, nor will it assume the responsibility for making alterations or corrections therein at the request of bidders, whether such requests be received before or after the bids are opened.
7. Neither the laws nor regulations make allowance for errors, either of omission or commission. It will be assumed that bidders are fully informed of these conditions and requirements before submitting proposals, and no bidder will be relieved from the responsibility assumed under his proposal upon a plea of error.

THE PANAMA CANAL CONTRACT.

[Memorandum for the President.]

SUBMITTED ON BEHALF OF THE MACARTHUR-GILLESPIE COMPANY.

I.

THE ESSENTIAL REQUIREMENTS OF THE ISTHMIAN CANAL COMMISSION RESPECTING THE QUALIFICATIONS OF THE CONTRACTOR.

1. The contractor must have "an available capital over all debts and liabilities, except those reasonably assumed to furnish the bonds hereafter required to be given, of \$5,000,000," and he must submit with his proposal "the names of the surety or sureties whom he proposes to give upon the bond to secure the performance of his contract * * *." (Quoted from invitation for proposals.)

2. A "group composed of contractors who have achieved a significant success in at least one of the departments of construction involved in the present undertaking and whose combined experience covers the whole task," * * * to the end that the "Government will get the benefit of the combined efforts of the best and most experienced contractors in the world, each in charge of a department in which he is a specialist and cooperating with other specialists * * *." (Quoted from Chairman Shonts's letter to the Secretary of War, dated August 21, 1906, a copy of which accompanied the invitation for proposals.)

II.

THE COMPLIANCE OF THE MACARTHUR-GILLESPIE COMPANY WITH THE FOREGOING REQUIREMENTS.

1. *Responsibility and sureties.*—Before its bid was made the MacArthur-Gillespie Company's entire capital stock of \$5,000,000 had been subscribed by responsible subscribers—\$2,000,000 by the contractors and \$3,000,000 by the bankers. The liability upon the bond is distributed among the various individuals interested in the contracting concerns, in such amounts that there can be no reasonable doubt as to the ability of each surety to respond upon his bond.

2. *Experience and professional qualifications of the group of contractors by whom the MacArthur-Gillespie Company was organized.*—(a) Each of the four contractors comprising this group has had special experience in an important "department of construction involved in the present undertaking" and their "combined experience covers the whole task."

MacArthur Brothers Company have had an exceptionally wide experience as general railroad contractors and as builders of dams, canals, and locks.

The T. A. Gillespie Company has had special experience in heavy masonry construction, also in building canals, dams, and locks.

The specialty of the Atlantic, Gulf and Pacific Company is dredging, and particularly hydraulic dredging, in which field it is perhaps the most important contractor in the world.

J. G. White & Co. are preeminent in organizing work in foreign countries, including the Tropics, and in all forms of construction involving electricity.

The volume of the combined average annual contracting and engineering operations of the four concerns is probably three times as great as the probable annual average of the work to be done upon the Panama Canal.

The following is a brief summary of some of the important accomplishments of these four contracting concerns:

MACARTHUR BROTHERS COMPANY.

The business of this company was founded by the grandfather of the present active managers, and has been successfully conducted for about eighty years. The following is a summary of some of the more important work accomplished or in progress:

The Wachusett dam, in Massachusetts, the largest artificial reservoir in the United States.

The first water-power canal, at Sault Ste. Marie, Mich.

Twenty masonry locks and large dams for the United States Government and the States of New York and Illinois.

Four sections of the Chicago Drainage Canal.

The entire work of preparing the World's Fair grounds at Chicago in 1892.

Several thousand miles of heavy railroad construction, including portions of many of the principal trunk lines of the United States.

THE T. A. GILLESPIE COMPANY.

The business of this company was founded by its present head, T. A. Gillespie, about twenty years ago. The work of this company includes:

Dam, canal, and power house at Whitney, N. C. This work is now in progress and involves and expenditure of upwards of \$4,000,000.

Reservoirs, dams, etc., for the East Jersey Water Company.

Canal and power house for the St. Lawrence Power Company at Massena, N. Y.

Five dams and locks for the United States Government on the Mouongabeha and Ohio rivers.

Reservoirs for the cities of New York, Pittsburg, Allegheny, Minneapolis, Erie, Troy, Schenectady, and Atlantic City.

Pittsburg filtration plant, now nearing completion.

A large amount of railroad, tunnel, and pipe-line work.

ATLANTIC, GULF AND PACIFIC COMPANY.

This business was founded by its present head, Mr. McMullen, about thirty years ago.

This company has 17 complete dredging plants, which have an annual aggregate capacity, under average conditions, of 30,000,000 cubic yards of material. It has a staff of over 50 skilled and experienced dredging superintendents and engineers. It has successfully carried through a great variety of work, including the following:

Harbor improvement at Manila for the Insular government.

Over 50 dredging contracts for the War Department of the United States.

Several canals, including one 7 miles long at Sabine Pass, Tex.; one 5 miles long, connecting the Yazoo with the Mississippi River; one between Oakland Harbor and San Leandro Bay, California; the waterway and Lake Washington Canal at Seattle, and a section, 20 miles long (now building), of the New York State Barge Canal, between Lake Champlain and the Hudson River.

J. G. WHITE & CO.

The business of the company was founded about fifteen years ago by J. G. White, the present president of the company. Among the important work of this company is the following:

Harbor improvements at Cebu and Iloilo, P. I.

United States coaling station at Olongapo, P. I.

The street railway system of Manila.

Numerous steam and electric railroads, several of them being in foreign countries.

Numerous railway and lighting installations and hydraulic plants.

This company now has on hand upward of \$20,000,000 worth of contracting and engineering work.

III.

ADVANTAGES TO THE GOVERNMENT IN HAVING THE PANAMA CANAL BUILT BY CONTRACT.

The great contracting concerns of the country control the best engineers, superintendents, and foremen, to whom they insure steady and permanent employment. Their organizations have been developed by years of experience. As already stated, the business of MacArthur Brothers Company has been in existence for about eighty years; that of the T. A. Gillespie Company for twenty years; that of the Atlantic, Gulf and Pacific Company for thirty years, and that of J. G. White & Co. for upward of fifteen years. The four concerns together control a large number of engineers and superintendents of long expe-

rience and special skill in every department of work involved in the construction of the Panama Canal. Their organizations are so large and so complete as to insure a supply at all times of a full complement of efficient men for the direction of the work on the Isthmus. Manifestly the Government can not duplicate these organizations. It is in no position to promptly ascertain who are the men best qualified for the various classes of work, nor can it compete with private contractors in offering steady and certain employment and satisfactory opportunities for promotion. It is recognized in the contracting profession that, other things being equal, the good men prefer private employment to employment by the Government, because of the better opportunities which private employment affords for recognition and advancement.

The gain in economy, efficiency, and dispatch by having large construction operations carried through by contractors is demonstrated by the fact that railroad and other large corporations almost invariably employ contractors in their construction work. If it is to the advantage of these private corporations, which are unhampered by legal restrictions and have permanent and efficient organizations of their own, to employ contractors, all the more so is it to the advantage of the Government to do so. The Government has recognized the necessity of the contract system by almost invariably employing contractors in its great construction work. Practically all of its great work during the last quarter of a century has been done by contract.

IV.

SOME OF THE REASONS WHY THE PANAMA WORK CAN NOT BE SAFELY UNDERTAKEN BY A GROUP OF RESPONSIBLE CONTRACTORS UNDER THE PROPOSED CONTRACT FOR A LOWER PERCENTAGE THAN 12½ PER CENT.

1. *The inference from the attitude of contractors generally.*—It is a most significant fact that after the invitation for proposals had been given the widest publicity the group of contractors represented by the MacArthur-Gillespie Company are the only responsible contractors qualified under the specifications who have offered to undertake the work at any price. It is a matter of common knowledge that most of the prominent contractors of the United States have considered the work, but after measuring the responsibilities involved were unwilling or unable to undertake it. It is also an open secret that several contractors endeavored, without success, to secure the necessary capital to qualify them as bidders.

2. *Actual expenses involved.*—Before the contractor can take any profit he must defray out of his commission very considerable current expenses, including interest upon working capital, compensation to sureties, salaries of general officers, administration and legal expenses, traveling expenses, taxes, rent, one-third of the cost of meeting personal injury claims, and the entire cost of meeting current claims for damages to property caused by the acts of the contractor's employees. Conservative contractors agree that the expenses of this character are likely to amount to between 4 per cent and 5 per cent of the pay rolls. Accordingly, of a percentage of 12½ per cent not over 7½ or 8 per cent will be left to provide a return upon \$5,000,000 of capital exposed to the numerous risks of the undertaking and to compensate the contractors for many years of hard work and grave responsibility and for withdrawing from a corresponding amount of work at home offering perhaps better prospects of remuneration.

3. *The cost of securing \$5,000,000 of capital and credit for a long period of years.*—The tying up by the contractors and bankers of \$5,000,000 of capital and credit for the entire period of the work, however long that may turn out to be, in itself calls for important compensation without regard to the risks involved, inasmuch as the appropriation of this capital and credit to the Panama Canal contract reduces by that much the contractors' capital and credit available for other enterprises.

4. *The serious risks and responsibilities imposed by the contract which expose the contractor to the danger of losing not only his profits, but his capital.*—Contrary to the general assumption, the form of contract prepared by the Commission imposes grave responsibilities on the contractor, accompanied by serious risks, some of which are named below. This is not said by way of criticism of the contract (which, for that kind of a contract, is entirely fair), but simply to make it plain that this is not an ordinary percentage contract under which the contractor is little more than the agent of his employer.

(a) The contractor assumes the entire responsibility for damages caused by the negligence of its own employees to the enormously valuable plant furnished by the Government. Considering the circumstances under which the work must be conducted this responsibility involves real and serious risks.

(b) The contractor assumes the entire responsibility of injuries to other property caused by the acts of its own employees, excepting where the injury necessarily results from the construction of the canal.

(c) The contractor must bear all expenses resulting from the "negligence or inefficiency" of its employees, and must likewise at its own expense make good all "imperfect" work. This is a serious responsibility rarely imposed by percentage contracts for railroad and other general contracting work.

(d) Upon practically all questions affecting the contractor's liability the decision of the chief engineer of the Commission (subject in some cases to review by the chairman) is to be final and conclusive.

(e) The contractor runs the further risk of being subjected to a penalty in case the estimates of the engineering committee as to time or cost of construction should be exceeded. In view of the universal experience that engineers, especially in the case of work where definite data are not obtainable, are more liable to underestimate than to overestimate both cost and time, conservative contractors are bound to assume that, to say the least, they are quite as likely to suffer a penalty as to earn a bonus.

(f) The fact that the estimate of time and cost is to be made by a committee, a majority of whose members are appointed by the Government, introduces an element of uncertainty and of possible loss, for which an allowance must be made.

5. *Four contractors require more compensation than one.*—Inasmuch as the primary basis of the contractors' compensation under percentage contracts is found in their experience, organization, and skill, it follows that a group of four contractors undertaking a given amount of work require more compensation than a single contractor. The mere fact that the work is of such a character that a combination of contractors is required indicates that it calls for an unusual variety of experience and skill.

6. *Where the commission is upon labor only, the percentage should be higher than where it is upon both labor and material.*—In most percentage contracts the contractor's commission is upon both materials and labor. The materials usually constitute an important part of the work. Furnishing of materials is acknowledged to be more profitable than furnishing labor, because of the lower ratio of expense. Accordingly, where a contract is for labor only, the percentage to the contractor should be higher than when a contractor supplies both material and labor.

7. *Delay in receiving final profit.*—In this case one-third of the contractor's commission is to be withheld until the completion of the work. Thus the realization of the major part of the contractor's net profit is postponed for several years.

V.

THE REASONABLENESS OF THE PERCENTAGE OF 12½ PER CENT IS AMPLY SUPPORTED BY PRECEDENT.

In an appendix will be found copies of opinions of prominent engineers and contractors regarding the percentages which are usual in contracts for work in the United States, and in many cases specifying the percentages paid under specific contracts. The originals of these opinions are also submitted.

The percentage of 12½ per cent for the Panama work is supported by ample precedents, and in this connection it must be remembered that in the ordinary percentage contract with a private corporation most of the elements of special risk pointed out above are absent. The ordinary percentage contract between a contractor and a railroad or other private corporation involves no serious risk to the contractor, so that the percentage is compensation to the contractor for the expense of carrying on the work and for the skill, experience, and organization which he contributes. Percentage contracts rarely tie up a large amount of capital, and, of course, contracts in the United States, however large, are usually completed within two or three years, so that the contractor's profit is soon realized.

If contractors receive 10 per cent and upward for furnishing both labor and material in the United States, under contracts which practically eliminate the element of risk, clearly 12½ per cent is a moderate percentage upon work

of unusual difficulty and magnitude in a foreign country located in the Tropics, where the contractor furnishes labor only, under a contract which ties up for many years \$5,000,000 of capital and credit and imposes serious risks of loss which are not usual in percentage contracts.

New York, Saturday, January 19, 1907.

Very respectfully submitted.

PAUL D. CRAVATH.
GEORGE W. WICKERSHAM.

APPENDIX.

[Being letters and telegrams from leading engineers and contractors in reply to query as to what in their opinion was a reasonable percentage price, etc.]

Engineers.

PARK ROW BUILDING,
New York City, January 19, 1907.

In response to your inquiry as to the percentage of profit usually allowed contractors by the State of New York in its public work, such as canal improvement, highway improvement, etc, I desire to state that the usual allowance is from 10 to 15 per cent. Of course this is for work done within the State, in close proximity to the base of supplies for labor, tools, plant, and materials. If the work was done in the Tropics, I should think this percentage could be fairly increased.

My experience in State work has extended over the last twelve years, during which time I was connected with the State engineer's department and had charge of the expending of between ten and fifteen million dollars in State work.

Yours, truly,

HENRY A. VAN ALSTYNE.
Ex-State Engineer and Surveyor.

NEW YORK, N. Y., January 22, 1907.

The inquiry as to my experience and personal knowledge on engineering contracting done on a percentage basis in this country has received my careful consideration. My experience in engineering contracting on a large scale began in 1884 with my connection with the Phoenix Bridge Company, of Philadelphia and New York, although I had been engaged in engineering practice for eight years prior to that date. The business of the Phoenix Bridge Company, with which I was connected in various capacities from assistant to the chief engineer to general manager from 1884 to 1891, was the construction of iron and steel bridges chiefly for the railways of the country, with occasional contracts for the substructures or foundations of such bridges. From 1891 to the present time I have been engaged, among other things, as consulting engineer in charge of the design and construction of both the foundations and superstructures of large bridges in New York and other places about the country and in the design and construction of other large public works to the extent of many millions of dollars. This consulting and contract experience has covered such constructions as proposed bridges across the North River at New York, the San Pedro breakwater at San Pedro, on the coast of southern California, the work of both the first and second Isthmian Canal Commissions, the department of docks of New York, the aqueduct commission of the city of New York, and the board of water supply of the same city now engaged upon a plan of additional supply involving an estimated expenditure of over \$150,000,000, besides a variety of engineering contract work of less prominence. Within my own experience in connection with the works referred to above wherever contract work has been done upon a percentage basis that percentage has varied from 10 to 15, the first being the more usual value, while the latter (15 per cent) is applicable to smaller works of uncertain character, or where the contractor would supply plant of an expensive or exceptional character. I know of practically no cases where the percentage has been less than 10 per cent or greater than 15 per cent.

The method of doing work on a percentage basis has been much extended during the past five or ten years until it may be said to be a rather common practice for the largest and heaviest building work in the city of New York. It is within my personal knowledge that at least one of the largest and most

experienced foundation companies in the city of New York does not only the greater part of its contracting work here on a percentage basis varying from 10 to 15 per cent, but also a substantial part, perhaps even a majority, of its foundation work throughout the country for large railroad corporations on the same basis. In cases where this company supplies its own plant, especially if of an expensive character, it receives 15 per cent as its compensation, its own organization being applied to the work under that arrangement. More frequently, however, the compensation ranges from 10 to 12½ per cent, that percentage being applied to the pay rolls and to the costs of all materials purchased for the work.

At least one of the great railroads entering New York City contracts on a percentage basis varying from 10 to 15 per cent, the latter covering smaller work of uncertain character.

I may state generally that the basis of compensation of 12½ per cent upon pay rolls and costs of materials purchased is a fair representation of much of the contracting now being done in this country in a wide range of large engineering construction.

Very truly, yours,

WM. H. BURR.

EVANSTON, ILL., *January 20, 1907.*

It is usual to allow 10 to 15 per cent on material and labor in percentage contract.

LYMAN E. COOLEY.

NEW YORK, *January 21, 1907.*

DEAR SIR: In response to your request for an expression of my opinion and experience in regard to work done on a percentage basis, which, I understand, you desire to submit to President Roosevelt in connection with the consideration of the Panama Canal bids, I beg to state that during my experience, particularly in the last seventeen years, I have known of and had charge of, either as principal or assistant, several million dollars in value of work done on a purely percentage basis—that is, where a percentage was paid on the entire cost of the work, including the plant.

It has been the practice with some of the large corporations with which I have been connected to do work in this way whenever there was need of expedition or where uncertainty existed as to the conditions to be met, and this method was eminently satisfactory. The commission in these cases ranged from 8 to 10 or 12 per cent. No work is done for the city of New York on a percentage basis, except to a limited extent, and in these cases it is the custom to add 15 per cent to the actual cost of the work.

I looked over the specifications for the Panama Canal at the time they were issued and formed the opinion that, with the uncertainties existing on the Isthmus of Panama in regard to climatic and other conditions, and particularly because a profit is to be paid on only a portion of the cost of the work, 15 per cent would be low. The 12½ per cent bid by your clients is, in my judgment, a low bid and one advantageous to the Government.

Regarding your request for a statement of my experience, I was for some thirteen years connected with the East Jersey Water Company and other water companies in New Jersey, during the last four years of that period holding the position of chief engineer. These companies did work of the value of many millions of dollars, some of the most important work being conducted on a percentage basis. In 1903 I became chief engineer to the aqueduct commissioners of the city of New York, and am now chief engineer, and as such the principal executive officer, of the board of water supply of the city of New York, which is in charge of the construction of an additional water supply for the city, a project of equal or greater magnitude than the Panama Canal.

Very truly, yours,

J. WALDO SMITH.

16 EXCHANGE PLACE, NEW YORK.

Compensation to contractors was, until within the past ten years, generally based upon unit prices for the various items of construction. Recently, however, the percentage method has been largely used, such percentage being based upon the total cost of labor and material. The percentage figure has been quite generally about 10 per cent, and greater when requiring special skill.

In most contracts upon a unit-price basis there is a provision for compensation to the contractor for extra work upon a percentage basis, and that percentage is generally from 10 to 15 per cent upon cost of all labor and material.

JOHN BOGART.

WESTERN MARYLAND RAILROAD COMPANY,
Cumberland, Md., January 21, 1907.

DEAR SIR: In connection with the MacArthur Brothers' bid on the Panama Canal work, they have asked me to communicate to you such views as I may entertain in regard to the reasonableness of their bid, together with any remarks I might wish to make relative to accepted custom or usual practice on contract work executed under the percentage system. In accordance with this I telegraphed you as follows:

"Contract work on percentage basis is usually 10 to 15 per cent on actual cost. Great Northern Railroad and other lines conform to this usage. Never heard of less than 10 per cent."

I will further explain by saying that I have seen none of the MacArthurs or any one else connected either directly or indirectly with bidding on the Panama work since the determination to let that work by contract was reached. I have, however, known of the work of MacArthur Brothers Company for several years, and about a year ago they finished up for us here several million dollars' worth of railroad construction, involving heavy grading, tunnel work, bridges, etc., all of which was completed in a very satisfactory manner.

Their bid on the canal work, which, I understand, is 12½ per cent, strikes me, as I think it would nearly every engineer of experience in construction work, as being well balanced, fair, and reasonable, and almost in exact accord with all precedent governing contract work when placed on the percentage basis. I think to most engineers it comes as a matter of surprise that the Government should secure so low a bid as one between 6 and 7 per cent from reputable and responsible parties.

An abnormally low bid, at least in railroad practice, is looked upon with some apprehension, for the reason that too low a margin against the contingencies and responsibilities involved may mean embarrassment or failure to the contractor and consequently to the railroad company itself.

It is our opinion that it would be ill advised for the Government to place this work in anyone's hands but those of the strongest contractor's, and upon such a fair margin of percentage as will enable them to maintain their strength and aggressiveness throughout the entire length of the work, and thus minimize placing the Government in an embarrassing position, due to the possible failure which might ensue in placing the work at too low a margin of percentage to insure absolute stability in the conduct of the work.

Yours, truly,

J. Q. BARLOW.

THE CITY OF NEW YORK AQUEDUCT COMMISSIONERS,
CHIEF ENGINEER'S OFFICE,
New York, January 22, 1907.

DEAR SIR: In carrying on the operations of this commission we frequently have occasion to do certain pieces of work on what is called the percentage basis. In these cases it has been the general rule to add 15 per cent to the cost price for superintendence, etc. In a piece of work of great magnitude, of course, this would be somewhat reduced. A percentage of from 10 to 15 per cent would, however, in my judgment, be warranted in an undertaking where the risks are, though uncertain, bound to be very great, or where unforeseen contingencies may cause very great and unexpected outlays.

Very truly, yours,

WALTER H. SEARS,
Chief Engineer.

THE BOARD OF RAPID TRANSIT RAILROAD COMMISSIONERS,
New York, January 22, 1907.

Messrs. MacArthur Brothers have asked me to state what I think would be a proper profit on contract work according to my experience. I should state that I consider between 10 and 15 per cent a proper profit, the variation depending upon the accessibility and the ease with which the work is conducted, and also taking into account the various risks in the matter.

Very truly, yours,

GEORGE S. RICE,
Chief Engineer.

New York, January 21, 1907.

Referring to your inquiry in regard to contract work on a percentage basis, I would state that this system is largely followed where conditions are unusual and definite information lacking. For instance, in New York City the laying of the underground trolleys was nearly all done by contract on the percentage basis owing to the difficulty of forming an estimate of the cost of moving the various water pipes, gas pipes, etc., the exact location of which was unknown. It has also been customary in sinking the foundations of large office buildings in the lower part of New York City to let these contracts on a percentage basis. Of course in letting a contract on this basis it is absolutely essential that the contract be given to one who is an expert in that particular line of work, as the contractor is being paid the percentage for his skilled organization; and if this is lacking the principal, of course, obtains no benefit. In fact, the only reason for giving a percentage contract to any particular contractor is because he is thoroughly well qualified in every respect to carry on the work in the most efficient manner. The exact percentage is determined largely by conditions in each particular case. Generally speaking, it is customary to give 10 per cent on labor and materials and from 12½ to 15 per cent on labor alone. I do not know personally of any case where the percentage has gone lower than 10 per cent on materials and labor. Recently as consulting engineer for a system of railways in South America I advised that a contract be given to a responsible and experienced contractor at 10 per cent on labor and materials, the railway company furnishing the plant.

In reference to the Panama Canal contract, considering all its provisions, I regard 12½ per cent as fair and reasonable when given to such responsible and

Yours, truly,

PHILIP W. HENRY.

New York, January 21, 1907.

DEAR SIR: I take pleasure in testifying to the advantages to be obtained by letting work on a "cost plus a percentage of profit basis."

This percentage of profit to the contractor must vary, of course, with circumstances. If the work to be done is of an ordinary and simple character, the profit should be less than where it is most complicated and most difficult to manage.

Ten per cent may be a good profit in the one case where 20 or even 30 per cent would not be too much in the other, all depending upon the amount of risk the contractor assumes.

Then, again, the cost of materials and appliances, interest on the capital invested in plant, etc., maintenance of a large office force, etc., may bear a larger proportion to the cost of construction in one case than in another.

From the engineer's standpoint, as distinctly there is from the contractor's, there is an advantage in this proportion of profit to the cost being high enough to encourage the contractor to do his best. The application of this fits alike the contract let for a "lump sum" and that on the percentage basis. The work must be let at a fair price in both cases in order to secure well-executed work, honestly done.

The reputable contractor offering to do a piece of work for a lump sum either must quote a high price to avoid the risk of loss or else he is tempted to skip his work or resort to some other expedient to come out even.

The writer only this morning has received a bid from one of the largest and best-known firms in the country to undertake a large contract for masonry piers costing considerably over a million dollars at "actual cost plus 15 per cent," as he says, "to cover his services and profit."

Trusting that perhaps I have answered your inquiry without saying any more. I am,

Very truly, yours,

F. STUART WILLIAMSON.

New York, January 19, 1907.

In an engineering experience of over twenty-seven years, during which I have had charge of work costing several millions of dollars and have been cognizant of much more not under my own supervision, and much of which has been done by "force account," the allowance to the contractors for work so done has generally been from 10 to 20 per cent for the superintendence, use of

small tools, etc. I have never known of a smaller allowance than 10 per cent, while in cases of special importance and difficulty 25 per cent has been allowed.

The percentage allowed to the contractor for such work is generally larger in recent years than in the earlier portion of my practice and observation.

HERBERT C. KEITH.

Telegrams.

THOMASVILLE, GA., January 21, 1907.

My opinion is that 12½ per cent commission on labor rolls only, the Government reserving to itself all profit on merchandise, materials for construction, supplies, machinery, and outfit, would be a very moderate compensation for the services and superintendence of competent contractors in constructing Panama Canal. Assured scarcity of labor and consequent prolongation of time of service of contractors are important elements entering into value of services.

D. C. SHEPARD.

PARKERSBURG, W. VA., January 20, 1907.

Large contract work on per cent basis. It is customary to pay 10 to 15 per cent on cost of both labor and material for the supervision and furnishing plant. We paid 12½ per cent on contract Zanesville, Marietta and Parkersburg, Little Kanawha and Buchanan Northern Railroads.

S. D. BRADY.

Chief Engineer, Zanesville, Marietta and Parkersburg Railroad.

Telegrams from engineers.

CHICAGO, January 21, 1907.

Will state that on large contracts on percentage basis on ordinary form it is usual to allow from 10 to 15 per cent on cost of labor and material for superintendence, use of tools, and profit.

RALPH MOMESKI.

BALTIMORE, MD., January 22, 1907.

When construction work is done by contractors on percentage basis it is customary to pay not less than 10 per cent on labor and material and from that to 15 per cent, depending on character of work and general conditions.

A. M. KINSMAN.

Engineer of Construction, Baltimore and Ohio Railroad.

CUMBERLAND, MD., January 19, 1907.

Contract work on percentage basis is usually 10 to 15 per cent on actual cost. Never heard of less than 10 per cent; Great Northern Railroad and other lines conform to this usage.

J. Q. BARLOW.

Chief Engineer, Western Maryland Railroad.

CHICAGO, January 22, 1907—2.37 a. m.

On large contracts let on percentage basis the usual percentage is from 10 per cent to 15 per cent on total cost of labor and material.

W. L. BRECKINRIDGE,

Engineer Lines, Est. C. B. & O. Ry.

ST. LOUIS, Mo., *January 21, 1907—7.50 p. m.*

Contractors working on percentage basis commonly receive 10 to 15 per cent on both labor and material.

W. S. DAWLEY,
Chief Engineer, Alleghany Improvement Company.

DULUTH, MINN., *January 20, 1907.*

On large contracts let on a percentage basis railroad companies and the United States Steel Company are paying contractors 10 to 15 per cent on both labor and material.

ARTHUR MITCHELL,
Engineer, Duluth and Northern Minnesota.

CHICAGO, ILL., *January 19, 1907.*

On all large contracts let on percentage basis it is usual to charge 10 to 15 per cent commission on cost of labor and material.

E. C. & R. M. SHANKLAND,
Civil Engineers.

CHICAGO, *January, 1907.*

In letting contracts on a percentage basis it is customary to allow from 10 to 15 per cent of cost of work to contractor for supervision and use of tools.

R. B. SEYMOUR,
Chief Engineer, C. I. and S. R. R.

HAMMOND, IND., *January 20, 1907.*

Work is often let on large contract for actual cost plus 10 or 15 per cent.

B. C. RICH,
Assistant Chief Engineer C. I. and S. Railway.

Letters from contractors.

WORCESTER, MASS., *January 21, 1907.*

I have your letter in reference to percentage work, and in reply would say that I have done much work on this basis, and the per cent paid depends largely on the character of the work done.

We received for erecting New York Life Insurance buildings—one in Kansas City, another in Omaha—cost and 10 per cent for each.

We received for additional work on the Boston Terminal Station, foundations and superstructure, cost and 15 per cent.

In several cases where we have done sewage and earth work, the additional work has been paid for at cost and 15 per cent profit.

Percentage work based on labor alone is generally taken at 15 per cent.

For work done for the Government on the Springfield waterworks, Springfield, Mass., we received cost and 10 per cent, and were paid for tools, machines, engines, and derricks.

We received for work done on the White House, cost and 10 per cent. This included constructional plans, material, and use of tools.

The character of the work at the Isthmus is such that a larger per cent than usual would be reasonable and should be given, and likely would be necessary.

I have studied the Isthmus Canal problem for over thirty years, and unless conditions have materially changed there, you ought to get for work at Panama, if you have to guarantee cost, at least 5 per cent more than you would in the States.

Yours, very truly,

O. W. NORCROSS.

*Telegrams from contractors.*BEATRICE, NEBR., *January 19, 1907.*

Railroad companies frequently have work done on basis of cost of labor and material plus from 10 to 15 per cent.

KILPATRICK BROS. & COLLINS CONTRACTING CO.

BUFFALO, N. Y., *January 19, 1907.*

Answering your inquiry as to the customary percentage on work so done throughout the United States, will say that as superintendent of maintenance of the Rock Island lines and chief engineer of the Lackawanna, on those roads all work that was let on percentage basis was on the basis of 10 per cent profit on cost of labor and material.

At this time the work we are doing in the neighborhood of Buffalo, our firm, as contractors, are receiving 10 per cent on labor and material on all work outside of regular contract.

As a rule, in work of this kind labor and material usually figure about an equal amount, or an equivalent of about 20 per cent on the pay roll alone.

Yours, very truly.

HYDE MCFARLIN CO.,

W. K. MCFARLIN,

Secretary and Treasurer.

THE FOUNDATION COMPANY.

New York, January 21, 1907.

DEAR SIR: With reference to the remuneration which ought to be paid to the contractors who undertake the construction of the Panama Canal under the specifications issued by the Government, we consider that 12½ per cent on the labor cost is a low percentage. In our own operations all over the country we do a great deal of work for corporations, the payment for which to us is never less than 10 per cent on the whole cost of labor and material and of plant rental. Our remuneration is frequently 15 per cent on the cost of the work when we furnish the plant, not including hand tools or supplies.

We think that, including general expense, the expenditures to be made by the contractors under the Government specifications, for which they will not be directly reimbursed, will amount to 6 per cent on the whole labor cost.

In view of the magnitude and difficulties of the work, the climatic conditions, and the large and expensive organization necessary to prosecute operations with rapidity, thoroughness, and economy, we think that 12½ per cent on the labor cost is absolutely the lowest remuneration for which any group of efficient contractors can afford to do the work.

Very truly, yours,

THE FOUNDATION COMPANY.

EDWIN S. JARRETT,

Secretary and Treasurer.

JOHN PEIRCE COMPANY.

New York, January 19, 1907.

In important contracts covering construction work done in the United States on a percentage basis the contractor's compensation varies from 7 per cent to 15 per cent, depending upon the character of the work and the conditions surrounding it.

Where the work is conducted in a region accessible to a good labor market, we have found the lower percentage a satisfactory compensation. In regions, however, remote from supply depots and a source of labor, and where the climatic conditions are bad, the higher percentage is often not enough to cover risks and delays.

The above statements are based on an experience extending over a period of twenty-five years, covering Government and other contracts aggregating \$50,000,000.

JOHN PEIRCE COMPANY.

EMIL DIEBITSCH,

Vice-President.

CHICAGO, January 19, 1907.

In letting large contracts on percentage basis it is customary to pay from 10 to 15 per cent on all labor and material furnished.

JOHN GRIFFITHS & SON.

CONTINENTAL ASPHALT PAVING COMPANY.

New York, January 19, 1907.

Replying to your request, we beg to say that it has been our experience in regard to percentage contract work that the percentages paid vary from 10 to 20 per cent, depending upon the nature of the work, the conditions under which it is to be performed, the grade of, ability, and experience required, and also somewhat upon the conditions of business, etc.

As a rule, in contracts provision is made for the payment for work to be undertaken which may not be specifically embraced in the terms of the contract, and this work is almost uniformly paid for upon a percentage basis, and, as a rule, the percentage paid is 15 per cent. We have known of large contracts being let at 12 per cent, 12½ per cent, and 15 per cent, and others at 10 per cent, but we do not recall any contracts of magnitude and difficulty or, in fact, any general large contracts at all where a percentage of less than 10 per cent has been paid.

Another factor which determines the percentage to be paid is whether or not the percentage is upon labor and materials, both, or upon labor alone. Where it is upon the labor alone the percentage usually and naturally runs higher than where it is upon both labor and materials.

We feel some reticence in naming certain specific instances of percentage work, inasmuch as it would not be proper for us to disclose prices without the consent of other parties, but we have given you the ranges of percentage work as known to us by experience.

This company is in the general contracting business and at present engaged in installing the high-pressure salt-water main service for the city of New York, at an aggregate cost of about \$3,000,000.

The specifications in this contract provide for the payment of all extra work to be done in connection therewith at cost plus 10 per cent. This, in our judgment, is fair compensation for work to be done right at home. To leave the country we would require a much higher percentage to make the proposition attractive.

Very truly, yours,

CONTINENTAL ASPHALT PAVING CO.
HUGO REID, President.

EVANSTON, ILL., January 19, 1907.

On large construction contracts on percentage basis it is customary to pay from 10 to 15 per cent on both labor and material.

FITZSIMMONS & CONNELL.
Contractors for Public Works.

Soo, MICH., January 19, 1907.

We never knew of contracts let on percentage basis for less than 10 per cent on both labor and material. Chandler Dunbar paid it on two years' contract, also Lake Superior Power Company, to Talbert & Co., and several others on contracts extending over a number of years 15 per cent is not unusual.

EDWARD BBOS.,
Contractors for Public Works.

CHICAGO, ILL., January 21, 1907.

On large contracts let on a percentage basis it is customary to allow from 10 to 15 per cent on cost of both labor and material.

G. H. SCRIBNER, Jr.,
Contractor.

ST. PAUL, MINN., *January 21, 1907.*

We have just completed \$180,000 contract on basis of 10 per cent over cost of furnishing labor and material, and we have received as high as 15 per cent on other work performed during the past year, but of less magnitude.

FRANKMAN BROS. & MORRIS.

Soo, MICH.

On all large contracts on percentage basis; usual to pay 10 to 15 per cent on both labor and material our experience.

GRANT SMITH & Co.

The following from an editorial of the *Engineering Record*, a leading engineering journal, under date of January 19, 1907, seems an impartial review of the subject-matter.

THE BIDS FOR THE CONSTRUCTION OF THE PANAMA CANAL.

The most ardent advocates of the lock plan for the trans-isthmian ship waterway can scarcely justify from their own point of view a smaller estimated cost than \$150,000,000, after allowing for the increased size of locks advocated by the Consulting Board and a provision for attempting to stop dangerous seepage under the Gatun dam, while, as a matter of fact, a reasonable allowance for the vast uncertainties of that plan is likely to swell the expenditures to possibly \$200,000,000 or even more. When it is borne in mind that this great public work must necessarily involve material political considerations, using that term in a broad, nonpartisan sense, the answer to the advertisements for tenders for constructing the canal carries with it not only great engineering interest, but also an interest of even national character.

The number of bidders responding to the request for tenders was four and the percentages bid for the work range from 6.75 to 28. This wide range in the tenders is obviously a measure of the varying estimates of hazard existing in the judgments of the bidders. At first sight it appears remarkable that a bid made upon a percentage basis should afford opportunity for such a range of risk, but an examination of the contract conditions under which the work is to be performed is illuminating. This journal has already expressed full editorial comment upon these conditions, and it is only necessary at this time to indicate the close relation existing between the possible consequences involved in the execution of the contract and the degree of hazard contemplated by at least some of the bidders.

In the first place, the percentage to be received and from which the profit of the contractor is to be derived, is not a percentage of the actual cost of the work, but of a cost estimated by an engineering committee of five members, two only of whom are to be appointed by the contractor. Furthermore, the possible premium or forfeit for early or deferred completion of the contract, respectively, is to be reckoned from the expiration of a period also to be estimated and determined by the same engineering committee. Although there can be no reasonable doubt as to the wisdom of some form of percentage contract for this work, there is abundant room for great uncertainty as to the vicissitudes of the contractor under such general contract conditions as those stated. Under a reasonable and just interpretation and enforcement of those conditions an efficient contractor would suffer no hardships, but it is easy to imagine exigencies which would impose upon him burdens that he might be most anxious to escape; and those exigencies might be intensely aggravated by changing phases of a Federal Administration or by the changing from one technical administration to another. While, therefore, a range of bids from the lowest to the highest of more than four times is certainly extraordinary, the circumstances attending the award of this great contract are of such a character as to explain it fully.

It is probably reasonable to admit that parties qualified to bid for this work are entitled to name what they consider a reasonable compensation for themselves. At the same time, if there were ever circumstances under which the award of a contract ought to be made with a view to the best interests of the public, regardless of the lowest bid, this is preeminently such a case. The Isthmian Canal Commission owes it to the Government to make the award of

this work irrespective of the principle of the cheapest construction, no matter what the bond may be or how thoroughly it may imagine the Government's interests to be safeguarded by the terms of the contract. If the lowest bidder can show that his qualifications of plant and methods, previous experience, and financial condition are such as to afford a certain warrant of his capacity to perform the work satisfactorily, he is assuredly entitled to receive the contract, but not otherwise. It is a question on the face of the bids whether so small a percentage as 6.75 is large enough even from the Commission's point of view to justify the residue of hazard, so to speak, under a form of contract designed to eliminate as much uncertainty as possible. It is not uncommon practice for contractors to receive as much as 15 per cent of the actual cost of work with practically no hazard at all. This obviously applies in general to small contracts compared to that under consideration, but in this case, unfortunately, the risks, as far as they exist, are at least in proportion to the magnitude of the work to be done. In fact, there are some risks not at first apparent which might lead to grave complications and affect most seriously a contractor working on a margin little greater than many brokers' commissions. It may easily happen that a percentage more nearly that ordinarily received by contractors would in the end be materially more economical for the Government.

NEW HAVEN, CONN., *January 24, 1907.*

DEAR SIR: In doing work on force account basis, or cost plus a percentage, we consider a case where we furnish labor only, a 15 per cent commission only a fair remuneration. In this case we furnish the small tools—namely, picks and shovels; the larger tools are charged by the day and a commission added. On large work, if we furnish material—that is cement, stone, and the like—together with the labor we consider 10 per cent a fair profit above cost. In this case, as in the other, we furnish the small tools only.

We would say that we are doing a great deal of work at the present time on the above basis.

Very truly, yours,

C. W. BLAKESLEE & SONS.

HEARING

BEFORE

SUBCOMMITTEE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1907

ON THE

CHICAGO DRAINAGE CANAL AND THE ILLINOIS AND MICHIGAN CANAL



WASHINGTON
GOVERNMENT PRINTING OFFICE
1907

CHICAGO DRAINAGE CANAL.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,

Washington, D. C., Wednesday, February 20, 1907.

The subcommittee on the bill H. R. 24271, consisting of Hons. Fred C. Stevens, William C. Lovering, and Charles L. Bartlett, met this day at 10 o'clock a. m., Hon. Fred C. Stevens in the chair.

There appeared before the subcommittee Mr. Charles L. Walker, of Rock Island, Ill., representing the State of Illinois; Mr. Robert R. McCormick, president of the board of trustees, sanitary district of Chicago; Mr. George A. Schilling, president of the board of local improvements, of Chicago, Ill.; Brig. Gen. George B. Davis, Judge-Advocate General, U. S. Army, and Hons. Howard M. Snapp, William W. Wilson, and James McKinney, Representatives in Congress from the State of Illinois.

STATEMENT OF MR. CHARLES L. WALKER, OF ROCK ISLAND, ILL., REPRESENTING THE STATE OF ILLINOIS.

Mr. STEVENS. What is your full name, Mr. Walker, and in what capacity do you appear?

Mr. WALKER. My name is Charles L. Walker, and I appear for the State of Illinois and the canal commissioners of the State of Illinois.

Mr. STEVENS. What is your official position, if any?

Mr. WALKER. Attorney for the canal commission.

Mr. STEVENS. Is that a statutory body?

Mr. WALKER. Yes, sir.

Mr. STEVENS. What is their function?

Mr. WALKER. They have charge of the Illinois and Michigan Canal and its lands and property.

Mr. STEVENS. That is the land of the canal described in this bill, H. R. 24271?

Mr. WALKER. Yes, sir.

Mr. STEVENS. Will you please state to us in detail what the position of the canal commissioners of the State of Illinois is concerning this bill, and why?

Mr. WALKER. Well, the canal commissioners and the State of Illinois, as represented by the governor, are opposed to the bill for many reasons. One chief reason is that the State of Illinois has not abandoned the canal or any portion of it. There is no expressed intention to abandon it, so far as I know, and the people at the last election voted against any disposition of the canal.

Mr. STEVENS. In what way did they vote; how did the question arise?

Mr. WALKER. The question arose on a joint resolution. Our constitution provides that the canal shall never be sold or leased or anything else without a vote of the people, and the question was submitted to the voters as to whether any action should be taken toward the abandonment of the canal.

Mr. STEVENS. Voters of the State of Illinois or the district?

Mr. WALKER. Voters of the State of Illinois.

Mr. SNAPP. State the result of that election.

Mr. WALKER. I did; that they voted against the abandonment of the canal or the sale or lease of the canal in any way.

Mr. WILSON. Or any part of it, Mr. Walker?

Mr. WALKER. I have forgotten the language of the resolution, but they voted against any disposition of any part of it.

Mr. WILSON. Is there not some disposition to abandon a part of this Illinois and Michigan Canal in Illinois?

Mr. WALKER. No, sir; not that I know of. The legislature a few years ago passed an act increasing the powers of the sanitary district of Chicago, in which they authorized the sanitary district to construct a channel across the canal, I think, in the Calumet region, without imposing on them any obligation for the restoration of the canal. That is the only recent act on the subject of which I have any knowledge at all. Nothing of that kind was to be done until the sanitary district had connected its channel with the upper basin of the Illinois and Michigan Canal with locks, so that transportation on the canal could get into the sanitary district channel.

Mr. STEVENS. What is the situation as to that project?

Mr. WALKER. I do not know. They are building the locks, but I do not know to what extent.

Mr. WILSON. Mr. McCormick, president of the drainage canal, is here.

Mr. WALKER. At any rate no condition has arisen or is likely to arise within a year or more, as I understand it, by which action will be made necessary and by which the sanitary district will have any right to cross the Illinois and Michigan Canal.

Congress, in 1822, passed an act authorizing or granting a right of way for the Illinois and Michigan Canal, not between the points along which the canal was in fact constructed, and provided that the work should begin or that a map of the location of the canal should be filed with the Secretary of the Treasury within three years. That was never done. No rights were acquired by the State of Illinois under the act of 1822. In 1826 the State memorialized Congress, asking for aid in the construction of a canal, and in 1827 Congress passed an act giving the State lands alternate sections 5 miles wide on each side of the canal after it was located, and it was under that act that the canal was built. There was no reversion of any kind in that act of 1827.

Mr. STEVENS. Then you contend that the act of March 30, 1822, has no application?

Mr. WALKER. No application whatever. The act of 1827 gave to the State of Illinois the absolute fee of this land, with the right to sell it and the right to convey a fee to anybody that they sold the land to, and it contained no conditions or reservations and no rights of any kind to the Federal Government as to title to the land. The only

reservation was the right of the Government to transport its property over the canal without charge. That, of course, was a matter of contract and did not go to the title in any way; and, therefore, the question of the abandonment would not in any way affect the title of the State or give the Federal Government any rights in the land or title to the land. That title is now and always has been in the State of Illinois.

Mr. WILSON. Absolutely!

Mr. WALKER. Yes, sir.

Mr. WILSON. You have had some decisions, I believe, and you told me you had when you were talking with me on this subject, under the act of 1822?

Mr. WALKER. Yes, sir.

Mr. WILSON. Will you refer to them?

Mr. WALKER. If the committee desires to hear them, I will.

Mr. STEVENS. Yes; whatever cases bear upon this proposition, because it is important.

Mr. WALKER. Perhaps I might do that now. The State of Illinois in the case of the City of Chicago *v. McGraw*, 75 Illinois, 566-573, holds that the State acquired nothing under the act of 1822, and the language is this:

The act of Congress of March 2, 1827, does not purport to be an amendment of the act of March 30, 1822, nor does it, even by inference, refer to it. In our opinion these acts constitute distinct and independent offers by the Government of the United States of aid to the State in the construction of canals, and the latter one having been accepted, without reference to the terms and conditions of the former, the State is only entitled to the grant which it conveys.

The adjudication of that question was commenced before the supreme court of Illinois in the case of *Werling v. Ingersoll* (182 Illinois, 25), and our Supreme Court say in that case:

It can not be denied that between 1822 and the passage of the act of Congress in 1827 no route had been adopted for the canal and no work of construction had been commenced thereon—and not until January 22, 1829.

Again they say, page 141:

Upon all the facts in the case it is plain that the act of 1822 was mutually abandoned by the parties, so far as it concerned the land grant, after the passage of the act of 1827, and that the right of way through the reserved sections was treated and regarded as impliedly granted by the latter act, under which the larger grant was made, and that the map was filed under that act, and none was ever filed under the act of 1822.

These decisions would seem to put beyond all question the fact and law that the canal was built under the law of 1827 and not under the law of 1822.

Mr. WILSON. That is the decision of the Supreme Court of the United States?

Mr. WALKER. Yes; the decision of the Supreme Court of the United States.

Mr. STEVENS. What was that last case?

Mr. WALKER. It is the same case that went through the Federal courts and is reported in 181 U. S., page 131, and following.

Mr. SCHILLING. Was not that an agreed case, Mr. Walker?

Mr. WALKER. No, sir; that was a contested case. Mr. Snapp knows that. He was in it.

Mr. SCHILLING. Was that first case that you cited an agreed case?

Mr. WALKER. I understand not. There is nothing that indicates it in the opinion.

Mr. SCHILLING. I have heard since I came to Washington, through Mr. Logan, that he is informed that there was a Supreme Court decision which was on an agreed case.

Mr. SNAPP. It began before a justice of the peace. Of course the facts were agreed upon.

Mr. WALKER. Now the act of 1822 provided—have you 181 U. S. there?

Mr. STEVENS. Yes.

Mr. WALKER. I will call your attention to the provision of that act under which I apprehend the opinion of General Davis was grounded. In fact he told me so, and said he knew nothing about the facts, but assumed the canal was built under the two acts. This act of 1822 says:

That the State of Illinois be, and is hereby, authorized to survey and mark, through the public lands of the United States, the route of the canal connecting the Illinois River with the southern bend of Lake Michigan; and 90 feet of land on each side of said canal shall be forever reserved from any sale to be made by the United States, except in the cases hereinafter provided for.

It was not connected with the southern bend of Lake Michigan. Then the act continues:

And the use thereof forever shall be, and the same is hereby, vested in the said State for a canal, and for no other purpose whatever, on condition, however, that if the said State does not survey and direct by law said canal to be opened and return a complete map thereof to the Treasury Department, within three years from and after the passing of this act, or if the said canal be not completed, suitable for navigation, within twelve years thereafter, or if said ground shall ever cease to be occupied by and used for a canal, suitable for navigation, the reservation and grant hereby made shall be void and of no effect. * * *

SEC. 2. *And be it further enacted*, That every section of land through which the said canal route may pass, shall be, and the same is hereby, reserved from future sale, * * *

You will notice that simply grants a right of way. It grants an easement. It does not undertake to convey a title, but an easement, and provides that if it is not used it shall revert. Had the canal been constructed under that act, and should the State abandon the canal, then the question might fairly arise whether or not the State lost all its right. The supreme court have construed that feature, however, and in another case holds that they did not.

Mr. STEVENS. The court holds that that act of 1822 has no application to the canal as it stands at present?

Mr. WALKER. Yes. The act of 1827 says:

That there be, and hereby is, granted to the State of Illinois, for the purpose of aiding the said State in opening a canal, * * *

Before this act of 1827 was passed the memorial of the legislature to Congress was for aid in the construction of the canal. They could not do it under the act of 1822 and therefore they asked for money. The act of 1827 says:

That there be, and hereby is, granted to the State of Illinois, for the purpose of aiding the said State in opening a canal to unite the waters of the Illinois River with those of Lake Michigan, a quantity of land equal to one-half of five sections in width on each side of said canal and reserving each alternate section to the United States, to be selected by the Commissioner of the Land Office, under the direction of the President of the United States, from one end of said canal to the other; and the said lands shall be subject to the disposal of the legislature of the said State for the purpose aforesaid and no other. * * *

SEC. 2. *And be it further enacted*, That, so soon as the route of the said canal shall be located and agreed on by the said State, it shall be the duty of the governor thereof or such other person or persons as may have been, or shall hereafter be, authorized to superintend the construction of said canal, to examine and ascertain the particular sections to which the said State will be entitled under the provisions of this act, and report the same to the Secretary of the Treasury of the United States.

SEC. 3. *And be it further enacted*, That the said State, under the authority of the legislature thereof, after the selection shall have been so made, shall have power to sell and convey the whole or any part of the said land, and to give a title in fee simple therefor, to whomsoever shall purchase the whole or any part thereof.

MR. STEVENS. Now, show me how the right of way was carved out and acquired and placed of record.

MR. WALKER. I understand in accordance with the act of 1827 the survey was made, the plat made and filed of the lands selected by the Secretary of the Treasury, and the odd sections were turned over to the State of Illinois, and the even sections were reserved to the Federal Government.

MR. STEVENS. Well, then, how did the canal company or the State acquire the right of way through the even sections?

MR. WALKER. The supreme court of the State of Illinois in this very case holds that the title was granted by the Federal Government through the even sections; an easement was granted through the even sections.

MR. STEVENS. Then would there not be a reversion on the easement through the even sections?

MR. WALKER. I think not.

MR. SNAPP. Let me explain, Mr. Walker, so that it can go into the record, and Mr. Stevens will have it. As has been said, the statute of 1822 authorized the State to mark out the line of a canal through the Government land and required it to make a survey and file a plat within a certain period. A survey was made, but was not filed within the time required. The State always thought until this decision that it had a right of way 90 feet wide along the canal through the even sections.

This case of *Ingersoll v. Werfing* was begun before a justice of the peace in LaSalle County. It was brought about in this way: Ingersoll claimed to own to the water, or to the towpath on an even section, by conveyance from the Government. The State claimed a 90-foot strip along the canal. Ingersoll had been in possession for a great many years. The State removed the fence and took possession of a 90-foot strip, and Ingersoll then brought suit in trespass; he brought suit against the assistant superintendent of the Illinois and Michigan Canal. Judgment was rendered against the superintendent in trespass. The State appealed the case to the circuit court, where the judgment was affirmed. They appealed then to the supreme court of the State, and the supreme court of the State affirmed that judgment. I then brought the case by a writ of error from the State supreme court to the Supreme Court of the United States, resulting in the decision in the 181 U. S. The sole issue in that case was whether the State of Illinois took a strip 90 feet wide under the law of 1822 through the even sections.

MR. STEVENS. That is exactly what we wanted to know.

MR. SNAPP. In that case in the Supreme Court of the United States the sanitary district of Chicago intervened in this way: They employed an attorney here to represent them. Apparently, however, he represented the defendant in error, Ingersoll. They undertook also in the

circuit court of LaSalle County to pay the judgment against an officer of the State, and set up the payment of that judgment in the supreme court in order to show that the litigation had been disposed of. All these matters appear of record in the case in the clerk's office of the United States Supreme Court here in Washington.

The supreme court, however, as we argued, ignored the payment of the judgment by the sanitary district, the evidence showing that the payment was made by the sanitary district, and decided the case on the merits; decided the contention of the State to the ownership of a 90-foot strip through the even sections, under the law of 1822, against the State. In that case two decisions of the supreme court of Illinois, one in this case and the decision in the 75 Illinois, referred to by Mr. Walker, are cited.

While some of the facts, the historic facts, as to the survey by the State, and other facts, were agreed upon in the circuit court of LaSalle County, it was not an agreed case in the sense that there was no real litigation between the parties, because it was a claim on the part of the State for 90 feet of land on both sides of the canal through the even sections, and that issue is determined against the State. And in that case the Supreme Court of the United States followed the decisions of the supreme court of Illinois, but decided the issue as a new question and held that the State had not complied with the provisions of the law of 1822; that that law was abandoned; that the State took no title to anything under that law; that the canal was built by the State under the law of 1827; but that the State had the right of way through the canal, an implied right of way through the even sections, under the law of 1827. In other words, they practically held in this decision that the State had no title to the 90 feet or anything else under the law of 1822. But, as I have always construed the decision, it simply held that the State has, under the law of 1827, an absolute title by possession to its right of way and towpath, through the even sections, under the law of 1827.

Mr. STEVENS. Do you contend that the Supreme Court holds that the State can acquire a possessory title as against the United States without a specific grant by Congress of that specific land?

Mr. SNAPP. They hold that under the law of 1827 the State was given the implied right to mark out this canal through the public land.

Mr. STEVENS. Across the even sections?

Mr. SNAPP. Across the even sections.

Mr. STEVENS. What right did the State acquire across that land on the even sections?

Mr. SNAPP. The Supreme Court holds that they acquired that right.

Mr. STEVENS. What right?

Mr. SNAPP. The right to the canal and the towpath bank.

Mr. WALKER. According to the decision of the Supreme Court of the United States--

When Congress under the act of 1827 granted the alternate sections to the State throughout the whole length of the public domain, in aid of the construction of the canal, it also granted by plain implication the right of way through the reserved sections, for it can not be presumed the Government was granting all these alternate sections to the State for the purpose avowed, and yet meant to withhold the right to pass through the sections reserved to the United States along the route of the proposed canal. But the implication would not extend to the 90 feet on each

side. It would extend to the land necessary to be used for the canal of the width contemplated, and that had been asserted in an act of the general assembly in 1825 and was subsequently reiterated in another act of that body (1829).

Mr. STEVENS. Do you understand from that, then, Mr. Walker, that that would carry the title from the Government to the State to the 90 feet in the even sections?

Mr. WALKER. Not the 90 feet, but the bed of the canal and the berm-bank through the even sections.

Mr. SNAPP. It was a bitterly litigated suit, and finally determined, as I said, against the State. I would suggest that in this connection the committee get the files of the arguments, the briefs filed in that case.

Mr. STEVENS. That is the only point of this hearing.

Mr. WALKER. Let me call your attention now to another decision of the Supreme Court which elucidates the problem you suggest, and it seems to me to dispose of it in our favor.

Mr. WILSON. Then you contend that the State of Illinois has not absolute title to the 90 feet on either side of this canal in the even sections?

Mr. WALKER. No, sir; the Supreme Court has held not.

Mr. SNAPP. We did contend so, but were defeated in that contention.

Mr. WILSON. Then the Government has some right in this Illinois and Michigan canal?

Mr. SNAPP. It has not.

Mr. WALKER. If the Government has sold the land to the adjoining owners, it belongs to them.

Mr. WILSON. It would depend upon the deeds or conveyances to each individual on the even sections of the land?

Mr. SNAPP. That is a question, of course, between the State and the individual citizens of the State; and their title, of course, depends on the laws of the State.

Mr. WALKER. Now, upon the other proposition you suggest, the question of the effect of the title to this portion of the canal property to the even sections: The only case I have found bearing upon that point is the case of *Walsh v. Columbus, Hocking Valley and Athens Railway Company*, reported in 176 U. S., 469. The Federal Government granted to the State of Ohio 500,000 acres of land in aid of construction of canals. The State of Ohio built this canal that is involved in this case and operated it for a while, and then passed an act of the legislature abandoning the canal, leasing it to a railroad company for the construction of a railroad thereon and the operation thereof. The adjoining owner brought injunction against the railroad to enjoin the railroad company from building its railroad, claiming that the title to the land had reverted to the United States; at any rate that they had lost their right under that. But the Supreme Court of the United States said no, and this is a portion of their opinion, reported on pages 477 and 478:

That the proposed use of the right of way for a railway was an analogous public use to that of the canal, and was not in violation of the act of Congress or the Constitution.

The language of the act granting the land to Ohio was practically the language of the act of 1827, granting the land to the State of Illinois. The only reservation therein was the right of free transporta-

tion to the Federal Government of its property over the canal, just as the only reservation in the act of 1827 as to Illinois is a similar provision. One of the points invoked was that it was in violation of the Constitution of the United States, invalidating the contract made between the Federal Government and the State of Ohio by reason of the reservation in the grant.

Whether the canal should be maintained forever as such, or should give way to more modern methods of transportation, was a matter of much less moment to the United States than to the State. The General Government was only interested in securing their use for the public and the free transportation of its own servants and property. The object of the act was to facilitate and encourage public improvements, but not to stand in the way of the adoption of more perfect methods of transportation which might thereafter be discovered.

Had the question of internal improvements arisen ten or fifteen years later, when railways began to be constructed, it is quite improbable that the State would have embarked upon this system of canals or that Congress would have aided it in the enterprise.

Waiving the question whether the State could have abandoned the lands upon which these canals were built, as public highways, we think it entirely clear that Congress could not have intended to tie the State down to a particular method of using them, when subsequent experience pointed out a much more practicable method which has supplanted nearly all the canals in use.

There was no undertaking to keep up the canals for all time, and we think the proper construction of the proviso is that the Government should be entitled to the free use of the canals as long as, and no longer than, they were maintained as public highways, and that the act of 1894, leasing those lands to the defendants for an analogous purpose, does no violence to the contract clause of the Constitution.

Were the question one of doubt, we would hesitate long before refusing to defer to the many decisions of the supreme court of Ohio, through several changes in its personnel, holding it to be within the power of the State to abandon the canal for other public purposes, and that such abandonment gave no right of action to private parties incidentally affected or damaged by it.

Then there are cited decisions of the supreme court of Ohio and decisions of the supreme courts of New York, Vermont, Pennsylvania, and Massachusetts.

That, it seems to me, shows that although the legislature should hereafter—it has not done so yet—pass an act abandoning this canal or any portion of it, it still would not require that even the even sections should go back to the United States, because there is no provision therein except the provision similar to that in the Ohio statute, and therefore it would remain in the State. If the State undertook to sell the property to you or me, then another question might arise; but until the legislature by its action determines that it will abandon the canal and determines what the facts of that abandonment shall be, there is no right in the Federal Government to interfere.

Now, you will see very readily that the attempt to do so is to cloud the title to the land in Illinois—to raise a question whether or not the Federal Government still assumes to own that land and exercise some control over it. We say that the Federal Government ought not to do that, that the legislature of the State of Illinois is in control of the property and has passed no law showing an intention to abandon it or showing an abandonment, and, therefore, if there is anything desired by the sanitary district with reference to this canal, they should be relegated to the legislature of the State of Illinois to get their rights and should not come to Congress to ask Congress not only to undertake to interfere in this matter when there is no abandonment, but also in a certain way to cloud the title of the State in the property.

Now, furthermore, with reference to this bill, the bill on its face seems to indicate that the canal lands and the sanitary district lands adjoin one another and that it would be one entire property. Such is not the fact at all. There are railroad rights of way and, I understand, individual property rights and rights of ownership between the sanitary district property and the Illinois property in the Illinois and Michigan Canal; so that it would not give contiguous property or contiguous rights in any way, and there would be no reason why it should be given to the sanitary district.

On the other hand, the question of the value of the property varies from one to two or three million dollars. We say that Congress ought not to undertake, ought not to intimate a purpose, to give to the sanitary district any such money or any such property, and that it would be a wrong, in view of the decision of the Supreme Court, and in view of the rights of this corporation, which is a creature of the legislature of the State of Illinois. It is a branch of the State of Illinois, a municipal corporation organized for the purpose of carrying out stated purposes, in one sense of the word, just as much as any municipality is, and therefore they should go to the legislature for what they want, not to Congress.

It seems a remarkable thing to us that Congress should seek to deprive the State of the property which has been given to the State of Illinois in fee, so far as the odd sections are concerned, and the absolute use of which, as to the even sections, has been given, so far as it is necessary to utilize the purpose which Congress had in mind when it granted the odd sections to the State of Illinois. There is no question of reversion. The only question at all, it seems to me, is the question of the contractual right between the Federal Government and the State of Illinois as to that provision of the act which your committee sees has been construed in a similar case by the Supreme Court of the Federal Government.

Now, of course, my own idea is—I do not know what anybody else's idea is—but my own idea is that, taking this right of way 36 miles long and about 280 feet wide through the odd sections, and I guess 90, or maybe 100 feet wide in the even sections, the real practical use of that property and its value is for railroad right of way, and I apprehend—that is, my idea would be—that if the State ever undertook to dispose of that and ever undertook to abandon the canal, from the very situation and from its value as such, it would dispose of it for railway purposes, and thus bring it under the Ohio case.

Mr. STEVENS. Bring it under the Ohio case?

Mr. WALKER. Yes, sir; and there is no question on the part of the State of Illinois that they will abandon the canal. It does not say that the State is going to abandon the canal.

Mr. WILSON. It implies it. Would it not, as a matter of fact, destroy that part of the canal?

Mr. WALKER. I do not know what the topography is. I would think not. A man looking over the country would apparently see that the sanitary district is higher than the level of Lake Michigan, but I think in fact it is lower. I understand there was some talk about some sewage rights. That is not in the bill, but I understood it was a sort of counter proposition or counter irritant with reference to it. As to that we say, if it is a proper thing to have, the legislature of

Illinois will grant it through its municipal government, and the Federal Government ought not, as to that, pass any act, because the passage of an act or resolution with reference to the canal immediately assumes the theory of some control by the Federal Government over the canal, which we say it has not the right to assume and should not assume.

Mr. LOVERING. Has Mr. Walker stated what are the conditions by which certain rights were reserved to the United States?

Mr. STEVENS. Yes; he claims there were none reserved—

Mr. WALKER. Except the right of traffic.

Mr. STEVENS. As I understand the situation now, then, the only right we have to inquire might be as to the even sections—the portion that is occupied actually by the canal, that has not already been patented by the United States to somebody else, and that the portion which is now occupied by the canal unpatented under certain contingencies might possibly revert to the United States at some time, but none of these contingencies have yet occurred.

Mr. WALKER. Yes.

Mr. STEVENS. That is the situation we are in, and I wanted you to understand that, General [addressing General Davis], because the question might arise at some future time. We have no right over the odd sections, and nothing has been shown to us that the sewage district of Chicago desires a right of way over the even or odd sections.

Now, do you think, Mr. Walker, if Congress should assume to allow a license, so far as it is concerned, over any of its possible interest in that portion of the land in the odd sections, that that would affect the right of the State or the leased property of the State or the Federal Government?

Mr. WALKER. Yes; I think it would.

Mr. STEVENS. In what way?

Mr. WALKER. In the first place, you would not have any legal right to act until an act of abandonment had been passed or had. The canal commissioners could not abandon the canal any more than an individual could. The State legislature must abandon the canal if it is to be abandoned.

Mr. STEVENS. Congress can not affect the rights of a State that the State already preserves under its original grant?

Mr. WALKER. Yes; but even in the conveyance of real estate, suppose I had authority to sell you a piece of valuable property and there should turn up a deed to the General—a quitclaim deed—on the record from the party who originally owned it it would immediately raise the question, What right has the General got? That is a cloud upon my title. You do not want to pay for a valuable piece of property when the General is making some claim to it, although you may say you do not see that the General has any valid claim. But still there must be something there, else the deed would not have been made by the grantor who granted to me.

Now, another thing I might suggest: It would not do any good to the sanitary district, because neither the canal commissioners nor the State of Illinois would recognize any right through that grant. Therefore they have got to come to the canal commissioners or the legislature to get the right to cross, because the statute of Illinois provides that the canal commissioners shall prevent anybody from encroaching

upon the property, and shall have them arrested and pursue a general course in the protection of the property; and therefore it would do them no good and it would injure the State in that question of title which I referred to.

Mr. STEVENS. Have you any questions, Mr. Lovering?

Mr. LOVERING. No. Have you any, General?

General DAVIS. No, sir.

Mr. LOVERING. You consider that the canal has in no sense ever been abandoned?

Mr. WALKER. No, sir. It is running now; at least it was operating before navigation closed and will resume whenever navigation opens again. It has been in continuous operation for traffic ever since it was built.

Mr. LOVERING. Has it been operated for any other purposes than traffic?

Mr. WALKER. There is water power created by this portion of the canal that is covered by this bill. That brings in an annual rental of over \$10,000 a year.

Mr. LOVERING. Is it used because it is an advantage to use it or only to keep the title alive?

Mr. WALKER. It is used because it is an advantage, so far as that is concerned, and the general policy of the Government is to keep up its waterways, in order to control the railroads. We all know that a railroad along a waterway has lower rates than elsewhere.

Mr. MCKINNEY. Is it not a fact that the operation of the canal as it is now conducted has an effect upon the railroad rates?

Mr. WALKER. Oh, yes. The experience, as I am informed by the superintendent, is that when navigation closes the railroad rates rise about 25 per cent, and when navigation opens again they fall about 25 per cent.

Mr. STEVENS. General Davis has a question to propound.

General DAVIS. Do you regard the canal as part of the navigable waters of the United States?

Mr. WALKER. No; it is not a part of the navigable waters over which the Federal Government has control. It is an artificial channel entirely. I might explain a little further: As a matter of fact, at Copperas Creek, the Illinois legislature, in order to improve the Illinois River, has built two dams, one at Copperas Creek and one at Henry, and the legislature gave to the State of Illinois the control of the Illinois River for navigation purposes to a point 1,000 feet above the dam. My recollection is that the Federal Government made a grant in aid of the construction of the dam at Copperas Creek. Those dams were built by the State in aid of it, to enable the canal traffic to get down there and through the Illinois River, because it filled up by accretion, and part of it has been a joint work by the Government and by the State of Illinois.

General DAVIS. Of course there are a great many decisions on the subject of what constitutes a part of the navigable waters of the United States. If it were found that the authorities bore pretty strongly that way, that it was a part of the navigable waters of the United States, then the crossing of the sewer, I believe, would be putting an obstruction to it?

Mr. WALKER. Yes.

Mr. McCORMICK. The Illinois and Michigan Canal is the subject of a treaty with Canada. The old treaty says that the citizens of Canada have equal right of transportation with our own citizens upon all the waters of the Lakes and all waters connecting the Lakes with the Gulf of Mexico, and all canals connecting the Lakes with the Gulf of Mexico existing, and all that shall be built in the future. I can not quote you the exact language to-day, but I can get it when I go back to my office.

General DAVIS. There is a long controversy with England as to the right to navigate the St. Lawrence River on the part of Americans, and it has been contended that the St. Lawrence River on our part below Ontario should be regarded as an arm of the sea; and in reply to that contention the British Government have contended that if the Erie Canal, for example, were thrown open to Canadian commerce without charge, they would be willing on their part to throw open the St. Lawrence River and its tributary canals to us. I would not be surprised if there was such a treaty as you mention. There is a good deal of treaty work of that kind.

Mr. STEVENS. Now, Mr. Walker, if any freight were billed or transported in this canal down to the Mississippi River down to the borders of Missouri, that would make it interstate, would it not, and bring it under the control of the Federal Government?

Mr. WALKER. Well, I do not know. The Federal Government is reaching out in that way, so that I do not know how it would be.

Mr. STEVENS. Would it not do that?

Mr. WALKER. I hardly thought so, because of a grant to the State.

Mr. STEVENS. But Congress can not grant away its constitutional authority to regulate commerce?

Mr. WALKER. No; but the mere fact, it seems to me, that I dig a canal myself or have a warehouse off a mile from the Illinois River and I dig a canal myself to the Illinois River and make the connection and transport freight down there does not, it seems to me, necessarily involve the idea that the Federal Government should have any control over the rate which I may charge on my own canal.

Mr. STEVENS. If you have a warehouse and are a common carrier the Federal Government would have, would it not?

Mr. WALKER. Yes; in that case it would. If the effect of the sewerage is to destroy the channel, that is something that the Federal Government does not want, because it would then be destroying something given by the authority of Congress.

Mr. STEVENS. General Davis's idea is that we have the authority to regulate the matter in some way.

Mr. WALKER. You would not have the authority to destroy if the effect of digging the sewer, as contended, would have the effect of destroying the canal. In that case even you would not have the power to do that. You could regulate, but not destroy.

Mr. STEVENS. It sometimes amounts to the same thing, you know.

Mr. WALKER. Yes; some of the railroads think so, but that is not the intention of Congress, of course.

General DAVIS. There have been quite a number of decisions since 1890, when Congress began to legislate actively on that subject, and occasionally I find it necessary to go over them, and I find they very

scrupulously regard the right of States in that respect, both as to construction of bridges and piers, and I have thus far found that the legislation as to waters by Congress within a State does not exclude municipal or State control. That is the case as to the Chicago River and the Calumet River.

Mr. WALKER. Of course any legislation of Congress ought to be, and I think would be, in aid of the commerce. The Federal Government would simply undertake to regulate the commerce and not attempt to regulate the channel. They certainly would not regulate the channel, because the State of Illinois some years ago, when the Hennepin Canal was started, passed an act giving to the Federal Government the Illinois and Michigan Canal if they would accept it. They would not accept it. I do not think the Federal Government would have any right to come into the Illinois and Michigan Canal and excavate it, or part of it at all, but it could only control the traffic thereon. But that is far away from the present proposition.

Mr. STEVENS. Do you desire to say anything further?

Mr. WALKER. No, sir.

Mr. WILSON. Mr. McCormick, the president of the drainage commission, is here this morning.

Mr. STEVENS. We will hear Mr. McCormick.

STATEMENT OF MR. ROBERT R. McCORMICK, PRESIDENT OF THE BOARD OF TRUSTEES, SANITARY DISTRICT OF CHICAGO.

Mr. STEVENS. You are the proponent of the bill No. 24271?

Mr. McCORMICK. Yes, sir.

Mr. STEVENS. Will you please state your views?

Mr. McCORMICK. Yes, sir. Before beginning I would like to correct Mr. Walker in a mistake that he inadvertently made. He stated he was representing the governor of Illinois, and through him the State. Mr. Walker is mistaken in that.

Mr. WALKER. I was sent by the governor personally.

Mr. McCORMICK. The governor told me he had no views on the subject, and wished me to elaborate my views so that he could make up his mind and see what was correct. You know he has been elected only two years and has not had time to master all the details of the matter.

Mr. WALKER. I came here at the personal request of the governor, and not at the request of the canal commissioners.

Mr. McCORMICK. He informed me that you appeared at the request of the canal commissioners.

Mr. WALKER. That was on Monday?

Mr. McCORMICK. Yes, and to-day is Wednesday.

Mr. WALKER. He telephoned me to come to Springfield last Wednesday, and asked my opinion with reference to the situation, and I gave it to him, and he asked me to come to Washington.

Mr. STEVENS. I do not think that is important, gentlemen. What we want here is the facts.

Mr. McCORMICK. I want to go into the history of this matter. A great deal can be brought out before we go into the case. I have not gone into the law because the Attorney-General or the Judge Advocate-General held that the title was in the United States, while Mr.

Walker holds that it is in the State. However this may be. I only want it to wind up where it belongs in the sanitary district.

In 1822 and 1827 the Congress passed statutes which resulted in the construction of the canal. The canal was opened in 1848 to traffic. It was not finished, however, in accordance with the plans on which it was begun, because the funds obtained by borrowing money and by the sale of land were insufficient for that purpose. The canal was more or less successful in the succeeding years, but not entirely successful as a waterway; but its most successful years were in the late fifties and during the civil war.

In 1864 the drainage situation became serious in Chicago, and an act was passed by the Illinois legislature stating that Chicago wanted to drain itself and reciting the fact that the canal from Bridgeport to Joliet had not been dug to its entire depth, and that digging it to its proper depth would be equally advantageous to Chicago as a sewer and to Joliet as a waterway. As I remember, at the time of the fire, this money was refunded to Chicago, a pure gift by the State.

It is rather interesting to know that even in 1864 the canal was looked upon by the commissioners more as a revenue producer than as a waterway. It is interesting, because in recent years, as laid down by our supreme court, as a waterway it was abandoned---

Mr. STEVENS. In what way did it produce revenue?

Mr. McCORMICK. In order to facilitate the deepening of it, they closed the canal a month earlier, closed the navigation, and opened it a month later, which evidently prevented its being used for transportation. At the same time the city of Chicago was required to pay the canal an estimated amount of lost tolls, so that as a revenue producer it was better with navigation partially stopped than if navigation had not been stopped.

Later on Chicago again, through its drainage needs, spent still more money. It installed and operated pumps to get a greater current through the canal, and this water was afterwards used at Lockport and, I believe, at Joliet, for water-power purposes.

Mr. STEVENS. Who obtained the revenue from that?

Mr. McCORMICK. The State obtained the revenue, what there was.

Mr. SCHILLING. The canal commission?

Mr. McCORMICK. Yes; it was not paid into the State treasury.

In 1870 in the public mind the idea had become so sure that the canal was no longer a practical affair that they put it in the new constitution of the State that the credit of the State should not be pledged for any more improvements to the canal, nor should any appropriation from the general revenues be made for the maintenance or improvement of it. In spite of this fact appropriations were actually made, until the matter was taken up in the Supreme Court by Mr. Burke, and in the case of *Burke v. Snively* the appropriation was stricken out in the supreme court of Illinois.

Mr. STEVENS. That is held invalid?

Mr. McCORMICK. Yes; held invalid. As I say, at one time the canal was undoubtedly a used and navigable waterway. But that was in the days of small things, when a small canal could be prosperous. But as time went on and the rest of the country grew, the canal was outgrown and became no longer useful.

In 1875 the tolls amounted to about \$100,000, or, in fact, \$101,000. The expenditures were about \$80,000. In 1901 the expenditures were

about the same, but the tolls were \$8,000, and in 1905 the tolls were \$4,000.

Mr. STEVENS. Where does the money come from to pay the expenses?

Mr. McCORMICK. The money in 1900 came in a very queer way. The supreme court rendered a decision in the case of *Burke v. Snively*—I can quote the very words to you, which will probably be better than trusting my memory. The supreme court of Illinois holds that—

The canal has practically fallen into disuse for any of the purposes of transportation of either person or property, and has been perverted to mere commercial purposes of supplying water power to those along its banks and selling privileges to cut ice from its pools. It is no longer a highway of commerce.

That is found in 208 Illinois, page 58. Also, the canal has rented some of its property that I know of to various powder purposes, for storing dynamite, and has disposed of its property from time to time that it had not disposed of before.

Coming to modern times, the canal was not large enough to act as a sewer for Chicago or be practically a vein of commerce. Along in the eighties it became evident that Chicago had to seek some new means of drainage. I need not go into the various plans that were considered, but the one adopted was that the sewage of Chicago should be taken over the divide at Summit and deposited in the Des Plaines River, and taken on down the Illinois River to the Mississippi. The experts said that the sewage could be diluted to the extent of 20,000 cubic feet per minute for over 100,000 inhabitants.

Then the drainage canal was built. If this canal had been built simply as a drainage canal, taking into consideration the purification of the sewage by dilution, it could have been built at half its cost, or perhaps a little more. As you know, the flow of water depends upon the utilization of the topography of the cross section of the State. The cheapest thing to do would be to cut a comparatively steeper canal and a great deal narrower one. That would have given a current of from 3 to 6 miles an hour, and the same amount of water could have gone through the smaller channel, but it could not have been navigable. The sanitary district act was passed specifically making the drainage canal a navigable stream; and not only that, but a deep waterway—a thing which has been advocated since the time of Pere Marquette, practically. The original drainage law that I have with me recites that in the rock sections the canal shall be nowhere less than 15 feet deep, and in the earth sections nowhere less than 14 feet deep.

In building this drainage canal the waterway feature was so strongly represented in the minds of the taxpayers of Chicago that they built the canal 22 feet deep throughout its entire length. If the canal were intended to be used merely for a sewer it could not only have been narrower, but they could have built truss bridges to span it, which would have been a great deal cheaper than bridges of a movable type. There is a great eight-track railroad bridge which of itself cost nearly \$1,000,000. It could probably have been built for a hundred thousand dollars under the other plan. So it was on down the canal; there were 15 or 20 bridges built, all movable. It is obligatory under the law to operate those bridges all the time. The estimate by our bridge engineer is to the effect that to put in the machinery on those bridges alone will require another million and half dollars.

In order to get the flow of water necessary to meet the law—if I am not making myself clear I wish you would interrupt me, the matter is so familiar to me that I perhaps forget that others do not know so much about it—in order to get enough water through the canal they have to get a greater opening to the lake than was afforded by the canal in its former condition. The cheapest way to do that would have been to build a number of large conduits like that at Thirty-ninth street, because at one place the river goes very near the lake and then swings away from it, and by building three or four conduits plenty of water could have been brought in without taking it to the river. However, the navigation feature was still to the fore, and what the district did was to widen the river to 200 feet and also to take out the center bridges and substitute for them bridges of the bascule type. The sanitary district of Chicago, which is almost, as far as area is concerned, equal to the city of Chicago, widened it from 17 feet to 26 feet, and have placed over it from 7 to 15 bridges.

Now, I do not for a minute say that this was all done for the purpose of navigation. It was done primarily for purposes of drainage. But, having once decided to use a certain kind of drainage, a great deal more money has been spent to make it an available waterway. There is no question to my mind that if this work in the Chicago River had not been done by the sanitary district it would have been done sooner or later by the National Government, and the National Government has recognized, as a matter of fact, a certain portion of it, so far, if your present river and harbor bill passes, because it proposes to do on the northern branch what the Chicago sanitary district has done in the southern branch—that is, to bridge it, and has appropriated in the Senate \$200,000 for that piece of work.

Up to date the drainage canal has cost about \$52,000,000. When it is completed it will have cost about \$75,000,000, or two-thirds of the entire cost of the deep waterway from Chicago to St. Louis, and about half the estimated cost of the waterway from Chicago to New Orleans. On the other hand, had the canal been purely a sewerage project, I have no hesitation in saying that the total amount could have been covered, up to date, by \$25,000,000, and finally by \$40,000,000. But, as I say, for the purpose of navigation, which was incorporated in the State law and added to voluntarily by the people in the sanitary district, the extra amount was advanced.

In view of this fact, and in view of the fact that the sanitary district by next summer will have completed a waterway most of the distance 22 feet deep and the balance of the distance 10 feet deep, to what is known as the Upper Basin of the Illinois and Michigan Canal, there will be no further need of the Illinois and Michigan Canal, even for the fictitious waterway. It is about 2½ feet deep now north of Joliet—

Mr. LOVERING. How deep did you say?

Mr. McCORMICK. Practically 2½ feet deep; practically that.

Mr. WALKER. It is more than that when in operation. There were over \$15,000 worth of tolls received from Joliet to Chicago last year.

Mr. McCORMICK. I think you are mistaken.

Mr. SCHILLING. Does that include the \$10,000?

Mr. McCORMICK. Not only has this enormous amount of money been spent for the waterway, but eventually over \$1,000,000 will have

to be spent to the account of Illinois and Michigan Canal directly, as I will illustrate, if you will permit me. When the drainage canal was being finished, it had to flow its waters through the city of Joliet. The old Illinois and Michigan Canal crossed the Des Plaines River at Joliet, and two dams were built, old-fashioned affairs, that had slack-water navigation as the canal crossed, and then proceeded on the west bank of the Des Plaines River. Those dams produced water power, which came from the water pumped by the city of Chicago; up to the year 1900 by the city of Chicago. In order to get the flow and go through the drainage canal to Joliet, they had to make a change in the nature of the river there. The sanitary district had first to widen it considerably, and then they had to make a modification in the plans. After long negotiation a plan was agreed upon between the sanitary district and the canal commissioners, which left them everything they had, so far as navigation and existing water powers were concerned.

After that contract was agreed to and work was about to begin, and when the canal was almost ready for opening, the canal commissioners took the matter into the open court and claimed that they had made a contract ultra vires, which they had no right to make, and had it annulled. The matter should have been taken into the upper courts, as another contract had been taken; but it was about the time of the opening of the canal, and Chicago was filled with typhoid, and the trustees of the sanitary district did not think they were justified in delaying the opening of the canal a year or two. Then they submitted to the most awful piece of sandbagging that it has been my misfortune to hear of. Having built the canal for \$50,000,000 to deliver a flow of 200,000 cubic feet per minute, they were compelled to build a water-power plant, a great dam, a tailrace, a retaining wall, and an underground tunnel, at a cost of \$385,000, none of which work was even necessary for the fiction of navigation, and none of which was necessary for any other purpose than the creation of a water power.

Mr. STEVENS. Where?

Mr. McCORMICK. At Joliet--Dam No. 1. The sanitary district has never received one cent out of this. To show what a valuable water-power plant they built at their own expense, I will only say that the State received—

Mr. STEVENS. I beg your pardon right there, but that is really none of our business.

Mr. McCORMICK. Very well. Now we come to the question of how much was spent which was not for navigation. The fact is that \$385,000 was spent by the sanitary district for purposes other than navigation, for the benefit of the canal commissioners. That, I think, is evident. About the time the canal was to be opened another objection was raised. It was alleged that the opening of the drainage canal would lower the level of the Illinois and Michigan Canal and would interfere with such navigation as it had. The governor of the State refused to grant the permit for the opening of the drainage canal until satisfactory arrangements were made on this score, whereby the sanitary district was compelled to spend another \$100,000. After the canal was opened the matter was taken to the State supreme court and thrown out as having been done under duress. It was stated that the contract was signed under duress and could not be enforced. That makes about \$500,000 up to date.

Mr. WALKER. Who pleaded ultra vias in that case?

Mr. McCORMICK. I am informed that the canal commissioners did in that case.

Mr. WALKER. You will find that the drainage canal people did it.

Mr. McCORMICK. Now we will come to 1903, to the legislation for the Calumet Canal, the construction of which will render the Illinois and Michigan Canal utterly impossible.

Mr. LOVERING. The construction or the operation?

Mr. McCORMICK. The construction. It will cut the Illinois and Michigan Canal at a lower level and practically drain it dry. The Calumet Canal will come from South Chicago—the Calumet River through what they call the Calumet channel into the drainage canal, cutting the Illinois and Michigan Canal at what they call the Sag. The law recites that the sanitary district must do this; but inasmuch as doing this will prevent navigation before this canal can be cut—that is, the Illinois and Michigan Canal—the sanitary district must connect the south end of its present channel at Lockport with the Upper Basin Dam No. 1 at Joliet, with a canal not less than 10 feet deep, at the expense of the sanitary district.

I have every confidence that the Illinois and Michigan Canal to-day is not more than $2\frac{1}{2}$ feet deep. But, admitting that it is $4\frac{1}{2}$ feet deep, when the sanitary district substitutes a canal through most of its length 22 feet deep and at no point less than 10 feet deep; when it builds the locks, as it is required to do under this law; when it gives them a large strip of land on its right of way for their operations, does it not seem fair that it should be recompensed in some way, especially as this extra work, namely, connecting the drainage canal with the Illinois and Michigan Canal at Joliet, in itself cost half a million dollars at least? This matter is not one of opinion, it is not one of estimate. Part of it has been finished and the contracts are let on the rest, and the figures can be produced.

Mr. STEVENS. Before you go further, let me ask you this: By "law" you mean a statute of the State of Illinois, do you?

Mr. McCORMICK. Yes; a statute of the State of Illinois.

Mr. STEVENS. Your contention is, then, that the effect of these various statutes of the State of Illinois authorizing the construction of the sanitary district and canal and authorizing their operation, and the operations by virtue of the statute, constitute a practical abandonment by the State of Illinois of the Illinois and Michigan Canal over the territory we have just been discussing?

Mr. McCORMICK. That is my opinion.

Mr. STEVENS. We want to get this down, so as to know just what to do.

Mr. McCORMICK. I want to make this trebly sure. The matter came to Congress because of the opinion in Chicago that the National Government had a certain interest. We wanted this waived; then if there was any question about the interest of the State, we could go to the legislature and have that waived. We came here first because Congress will adjourn before the legislature will. That is the position exactly.

Mr. STEVENS. You contend, then, that the United States has a possible reversion of some portion of the right of way of the Illinois and Michigan Canal?

Mr. McCORMICK. Yes, sir.

Mr. STEVENS. And that that possible reversion will be under the control of Congress because the State through its various acts in establishing the sanitary canal and giving it authority and the authority as exercised will constitute a practical abandonment by the State?

Mr. McCORMICK. Yes, sir.

Mr. STEVENS. Of that portion of the Illinois and Michigan Canal covered—

Mr. McCORMICK. By this bill?

Mr. STEVENS. By this bill.

Mr. McCORMICK. And if that should be a mistake—

Mr. STEVENS. And that is your contention?

Mr. McCORMICK. Yes; that is my contention; if we should be wrong in that, we will then ask the State to make a formal transfer.

Mr. STEVENS. We wanted to get a perfect understanding about it.

Mr. LOVERING. You do not seem to have answered Mr. Stevens' first question.

Mr. McCORMICK. What was that?

Mr. LOVERING. Who bears the expense of the operation of the Illinois and Michigan Canal?

Mr. McCORMICK. It is paid by the revenue that the canal obtains. But the revenue is not sufficient, and the canal is not maintained. It overflowed our works within a month and cost us heavily. It did \$10,000 or \$15,000 worth of damage. It has not enough revenue to support itself.

Mr. STEVENS. How is it supported?

Mr. McCORMICK. It is not supported. It is moribund. The water power derived from the plant provided for the sanitary district provides \$12,000.

Mr. LOVERING. Are there salaries paid?

Mr. McCORMICK. Yes, sir.

Mr. STEVENS. Is there not a superintendent and a corps of laborers to look after it?

Mr. McCORMICK. The best way to show you what is done in that way is to tell you that it is called, locally, the "tadpole ditch." That is what they call it.

Mr. LOVERING. How much did it cost to build it?

Mr. McCORMICK. It costs \$6,000,000, I believe, to build.

Mr. LOVERING. Eighty thousand dollars was the last figure you gave.

Mr. McCORMICK. Of the annual expense?

Mr. LOVERING. Yes. That was the time when Mr. Stevens asked you a question.

Mr. McCORMICK. I would know a great deal more about it, but I sent a member of my office down to look through the public files, and he was refused access to them. I do not know where the money comes from, outside of the two water-power plants and a few leases.

Mr. WILSON. Do they not sell ice?

Mr. McCORMICK. I will give you the reason why the sanitary district wants this. In the first act there is a clause, as I remember it, that if the Illinois and Michigan Canal is needed for the purposes of the sanitary district, it can be used by any sanitary district within the county within which such district is organized. That means that such part of the Illinois and Michigan Canal as lies in another county, if

needed, can be used without cost. When the original sanitary canal was surveyed, there were a number of routes planned. One of them embraced that canal, but I do not know much about that history. It was not adopted, anyhow. However, our attention is called to the fact that the amount of water taken from Lake Michigan must be limited, and whatever the just limit is I do not know, but there is no question but some limit must be put. That makes certain that the time must come when a pure flow of sewage from Chicago, with what water is allowed, will become a menace to the valley people unless it is treated in some form. We are beginning investigations. We have not got anywhere yet as to what plan must be adopted; but what will be done is this, that some temporary works—not temporary, but what they call settling basins—will have to be established in order to relieve the canal. At that time I expect that the Illinois and Michigan Canal in Chicago will be used to put the settling basins on, and then the sewage will be run half purified into the drainage canal. That plan is down to the point where I can talk about it.

Mr. STEVENS. That is none of our business.

Mr. McCORMICK. I supposed that you might care to know about it. I have been talking as much as I have mostly because of a letter that I saw from Major Riché. Is your interest upon the legal aspect of it or upon the rights of it?

Mr. STEVENS. We first want to know your opinion of the legal aspect of it, and then, secondly, what reason you think should be given for the passage of the bill.

Mr. McCORMICK. My opinion of the legal aspect—and as I am not a lawyer I will not put very great store by it, and I am sorry that we have not got our lawyer here, but he is engaged in the trial of a very important case—is that the various acts mark the abandonment; and if they do not, they should. The legislature has imposed upon the sanitary district the expenditure of many millions of dollars that were not drainage. They have imposed the duty of substituting a canal 10 feet deep for the present canal, and the district has been compelled for other reasons to spend another half million dollars directly for the benefit of the canal commissioners.

Mr. STEVENS. You claim that that has been followed by the fact that whatever traffic formerly went by the Illinois and Michigan Canal now goes by your canal?

Mr. McCORMICK. It will next summer. We would be practically finished now, but a flood came on a month ago and flooded out our works, and we have not been able to finish. By the 1st of August at latest our canal will be finished and will be turned over to the Government or to the State for the operation of traffic, and it will certainly be taken in preference to the little canal.

Mr. STEVENS. Proceed as rapidly as possible.

Mr. WILSON. Are you familiar with the distance between the Illinois and Michigan and the drainage canal?

Mr. McCORMICK. It is on the map. Between Chicago and Summit they are separated by a railroad right of way. It will show on the map. It is very close all the way. It is widest at Lockport; there it is half a mile.

Mr. WILSON. I did not know but what you knew, so that it could go in the record.

Mr. McCORMICK. It is very close all the way.

Mr. WILSON. Very near.

Mr. McCORMICK. Yes.

Mr. STEVENS. But there are intervening rights?

Mr. McCORMICK. Yes; but from the point of view of the commercial use of the canal, if you wish me to talk of that at all, the Illinois and Michigan right of way, the canal, is needed by the drainage canal. The sanitary district has the right to lease dockage on its canal; the State of Illinois reserving the right to take a part of that rental to itself. The strip on the side of the drainage canal is narrow. It is not sufficient in itself for a man to put a factory there; he has got to go in the back country. Now, if we have our strip here, and then comes the Alton Railroad, and then the Illinois and Michigan strip, and another owner comes in between, he controls not only the back country but the canal as well, because a man can not get access from the drainage canal to the back country, and if he can not do that there is no object in his being on the drainage canal. In fact, we now have a big firm negotiating for a lease. They tried all sorts of ways. One clause they wanted put in was that we should guarantee them access to the drainage canal. We could not do that.

Mr. STEVENS. Is there any right of way of any railroad now on these reserved lands?

Mr. McCORMICK. Not to my knowledge. There are three railroads from Chicago to Joliet.

Mr. STEVENS. Not on these lands?

Mr. McCORMICK. Not on the public lands. Now, as to the value of this right of way. It is something that nobody can do more than guess at. The sanitary district bought 70,000 acres of right of way at a cost of about \$3,000,000. According to Major Riche's figures the right of way of the Illinois and Michigan Canal is approximately 1,000 acres, and I take it should figure a strip through the even portions as well as through the odd, so that it would be considerably under 1,000 acres. If the same value is to hold true for that 1,000 acres as for the 70,000 acres, that would be about \$300 or \$400 an acre. But the value will not be as great, as you know. When you condemn property you buy the property at its greatest value for any purpose; so that the district had to pay the high value for that land. The Illinois and Michigan Canal land would not have had any value for farm land. It would not have been valuable for anything but a right of way. The value of the right of way of course comes down to the question of the need for a right of way and the supply and demand. That is not the only right of way obtainable. There is room for a number of them, and the competition is great. There are already four railroads between Chicago and Joliet, and the question of anybody wanting it is exceedingly doubtful. So that our case comes down to this.

In the first place, we are inclined to believe that the rights of the State of Illinois and of the Illinois and Michigan Canal between those two points have been conveyed to us, anyhow. We come down to the point that in the building of the drainage canal the city of Chicago has spent \$20,000,000 to make it a waterway for the use of the whole Government. We come down to the point that we have paid to the account of the canal commissioners \$500,000, and to build a substitute canal we are spending another \$500,000.

Mr. STEVENS. What is that canal?

Mr. McCORMICK. The canal from Lockport to Joliet.

Mr. SCHILLING. The 10-foot canal.

Mr. McCORMICK. That is another \$500,000. That will be completed this summer, and when that is completed the Illinois and Michigan Canal from Lockport to Joliet can have no further value whatever. It stands to reason that when you have a canal 22 feet deep nobody will use the canal that is 2 feet deep.

Mr. WILSON. What about the charges?

Mr. McCORMICK. The sanitary district will charge no tollage. Whether the sanitary district will charge a tollage at the lock or not I do not know.

Mr. STEVENS. I wish you would give us a reference to the statutes of Illinois of which you have spoken.

Mr. McCORMICK. I have them all with me in a pamphlet, but I will have to mark them and give them to you afterwards. The canal right of way itself will be of no value further as a waterway, but the sanitary district has built a substitute waterway for the use of the State and the Government.

Mr. SCHILLING. Without any toll?

Mr. McCORMICK. Yes, sir; and has to maintain it forever, and has to maintain the bridges and operate it and receive no pay in return. The abandoned right of way is of no special value except to one who wishes to stand between the sanitary dockage and the back country.

Therefore we feel that the National Government should put us in a position to secure our title from the State forevermore. Furthermore, as Mr. Schilling here says, the southwest portion of the city of Chicago can not drain into the drainage canal until some final arrangement has been made to dispose of the Illinois and Michigan Canal land. The only way of doing it satisfactorily is to put those lands in the hands of the management of the ditch that exist for drainage. If it goes to the railroad company or to private owners, unless your act is very carefully drawn they may maintain that there is no right of way for easement purposes.

That is all I have to say.

ADDITIONAL STATEMENT OF MR. CHARLES L. WALKER.

Mr. WALKER. As to the questions that Mr. McCormick has suggested with reference to the tolls and that feature of it, and the question of the future size of the sanitary district, that it has only been for sewage and that it had not been made for a deep waterway, and the amount of the tolls, and the contracts with the Illinois and Michigan Canal that he talks about, if it had not been ultra vires, with that we have not now anything to do.

However, Mr. Snapp was attorney for the canal during the time of which he speaks, and he can give you gentlemen any information that you desire as to that situation. It does not cut any figure in this situation at all.

Mr. STEVENS. Only in this way, that Mr. McCormick contends that all these things constitute a part of the design of the State of Illinois to abandon the Illinois and Michigan Canal for navigable purposes along that stretch.

Mr. WALKER. Yes, sir; but it seems to me it would not have anything to do with the propriety of the passage of this bill. He talks

about being reimbursed. If the Federal Government wants to reimburse them, if the Federal Government wants to give them \$1,000,000 that they have expended in order to get a deep waterway, that is a different proposition; but we say that the Federal Government ought not to be asked to undertake to give property that belongs to the State to the sanitary district. That is for the legislature itself to do.

The question of the effect of the construction of this channel across the channel of the Illinois and Michigan Canal—I do not know what idea the legislature has. The people evidently had an idea that the canal should not be done away with in any way, as the constitution provides, and, therefore, if the legislature has intimated anything, I assume that the legislature will change that intimation when it has received the vote of the people and knows the will of the people on the proposition.

Mr. STEVENS. Will you follow it as to the exact proposition that was submitted to the people and the requirement of the constitution of the State as to what should be done and the vote of the people at the last election, so that it can go into the record?

Mr. WALKER. I do not know that I can give you the vote at all. Mr. McCormick has said something about the question of dockage rates that the Illinois and Michigan Canal reserves on that. My understanding is that all that is in this act, and this act provides that a certain section of the land which is on the sanitary district channel shall be given to the State upon which the State can construct its docks. There is no question of dockage fees, as I recollect, but even if there were it seems to me it would not cut any figure on that proposition. If the State, in order to protect the Federal Government, provided that the transportation of the Federal property over the big canal should continue, that may have been for the purpose of any interruption during the period of construction or what not; at any rate it undertakes to protect the contract relation between the Federal Government and the State of Illinois, as provided by that law.

Mr. McCormick says they came here to you because you adjourn before the legislature adjourns; but they have not introduced any bill in the legislature asking anything of the kind that I have ever heard of, and there has been just as much time to get relief from the Illinois legislature as there has been to get relief from your body; and therefore it seems to me there is nothing in that proposition.

As to the destruction of the canal by the building of the Calumet channel through the sag across it, there is nothing in that proposition, because the sanitary canal is very much lower than the Illinois and Michigan Canal, and it can be carried across on an aqueduct, as in the case of some other streams; so that there is nothing, as the bill itself provides, it seems to me.

In regard to the sandbagging proposition, I do not know anything about that. I was not the attorney for the canal commission at that time; but I say that Mr. Snapp was, and he knows about that. I do not know anything about the canal being closed for one year. If the question of rentals, of income, cuts any figure, the canal commissioners want to be heard upon the question of fact. I did not believe there was a question of fact. I supposed that it did not make any difference to the Federal Government whether the canal paid or did not. It does not make any difference. It is being operated as required, at no expense.

Mr. LOVERING. At no expense to the State? At no expense to the Federal Government?

Mr. WALKER. Yes, sir; no expense to the State except for the revenues that come to the canal itself.

Mr. WILSON. What are the revenues of the canal?

Mr. WALKER. I do not know. I may be mistaken as to the amount I stated; but I know that Norton & Co. paid \$10,000 a year under their contract—have paid that—for their water power, and they also paid tolls on the canal. Just what they amounted to I do not know, but I have understood that they amount to quite considerable—in the neighborhood of \$5,000.

Mr. WILSON. Does not the canal also pay Norton & Co. for certain services?

Mr. WALKER. No, sir; not that I know of; none whatever. So that it seems to me, if your honors please, that the question here is this. No fact of abandonment is now in existence. No definite action has been taken by the State of Illinois that shows that it is going to abandon the canal, and I think we all agree that under no law can there be any right in the Federal Government nor ought the Federal Government to exercise any control or take any action in regard to it until the State itself undertook to abandon the canal.

And in connection with the rights that the sanitary district has had, they get them all from the State: it is a branch of the State, and they ought to go to the State to get any relief they desire. I believe that is all I care to say.

ADDITIONAL STATEMENT OF MR. McCORMICK.

Mr. McCORMICK. I have several extracts here from the laws relating to the sanitary district of Chicago, which I would like to read. The first is in the new act authorizing the construction of the Calumet Canal. The first part merely says: how the canal shall be built and what size it shall be. Then it reads:

Provided, however, That before any such channel is constructed across said Illinois and Michigan Canal, or the navigation of said canal in any manner interfered with, said sanitary district of Chicago shall connect its present main channel from the controlling works at Lockport with the upper basin of the Illinois and Michigan Canal at Joliet by a channel of a depth of not less than ten (10) feet and a width of not less than one hundred and sixty (160) feet through its entire length, in which channel so to be constructed said sanitary district shall provide and construct a lock or locks of the size of at least twenty-two (22) feet in width by one hundred and thirty (130) feet in length between miter sills, connecting upper and lower levels, and provide suitable protection for water craft in using said locks and channel. Said locks shall be constructed of the most approved pattern of their size, and to be perfectly safe for use and be equipped with machinery to operate the same; and if only one lock is constructed it shall be provided with double gates to prevent accident, and said sanitary district shall forever maintain and operate the same.

Provided further, That said sanitary district shall furnish and provide at said lock a site of the dimensions of at least 20 by 30 feet, upon which the State, through the canal commissioners, shall have the right to erect a suitable office building and keep an agent therein, and the canal commissioners shall have such authority in and about said lock as is necessary to enforce the rules and regulations prescribed by them.

* * * * *

3. Said sanitary district shall permit all water craft navigating or purposing to navigate said Illinois and Michigan Canal to navigate the water of all said channels of said sanitary district promptly without delay and without payment of any tolls or lockage charges for so navigating in said channels.

There is a clause in here applying to the Illinois and Michigan Canal.

Mr. SCHILLING. Can you find that clause that relates to the abandonment of the canal at a certain point, or which provides that it may be declared a nuisance?

Mr. McCORMICK. That is what I am looking for.

Mr. SCHILLING. We had it here the other day, Mr. Chairman, the Illinois statute.

Mr. McCORMICK. Here it is:

and shall also have the right to construct a channel across the Illinois and Michigan Canal, without being required to restore said Illinois and Michigan Canal or said feeder to its former usefulness. If by reason of said abandonment a stagnant stream or pool of water shall remain upon the deposits of Chicago sewage, accumulated in said city of Chicago as a sewage outlet, said sanitary district shall fill up said canal to a depth sufficient to remove said condition and prevent the spread of pestilence and disease throughout the territory in which said Illinois and Michigan Canal is abandoned.

If that is to be done, it will cost another million dollars, at least.

Mr. STEVENS. Where would that be?

Mr. McCORMICK. From Joliet to Chicago.

Mr. WILSON. Where the locks are built.

Mr. STEVENS. Over the portion covered by this bill?

Mr. McCORMICK. Yes, sir.

Mr. SCHILLING. And that construction, now, cutting through the Illinois and Michigan Canal, which will break its continuity, is now being done by the sanitary district?

Mr. McCORMICK. Yes.

Mr. SCHILLING. And you say that will be accomplished by August, at the very latest?

Mr. McCORMICK. August 1, at the very latest, barring acts of God.

Mr. SCHILLING. And you mean to say after that is accomplished and those locks are built it can not be used from that point north?

Mr. McCORMICK. Certainly.

Mr. WALKER. No.

Mr. McCORMICK. It can not be, and it will not be. The canal costs about \$10,000 a year, at least, more than it brings in; and when they get the big canal furnished free of cost it is inconceivable that they should continue the use of the other, and within a year we will cut the Illinois and Michigan Canal short in two.

Mr. WALKER. Why, you will not have your locks finished by that time--the 1st of August.

Mr. McCORMICK. I beg your pardon; they will be.

Mr. WALKER. I do not think that your engineer will say so.

Mr. McCORMICK. My engineer says the 1st of June.

Mr. WALKER. I do not think anybody else will say so. And you can not cut the Illinois and Michigan Canal, you can not begin to cut it, until after you have done that, and you would not in the very nature of things, I should think, commence the cutting of the Illinois and Michigan Canal until you have fixed your rights that govern through the Calumet region; so that there can be nothing done except that, as Mr. McCormick says, it will be useless to maintain the old canal after the connection is made. But that does not interfere with the fact that it may be operated, and does not interfere with the fact that the State has not permitted any act of abandonment.

Mr. WILSON. Just one question before you finish. I spoke to Mr. Walker about the income of the Illinois and Michigan Canal and the contract that it had with Norton & Co. in Joliet. Are you familiar with that?

Mr. McCORMICK. Yes, sir.

Mr. STEVENS. I do not think that is material to the issue here.

Mr. McCORMICK. It has the revenue and the profit.

STATEMENT OF MR. GEORGE A. SCHILLING, PRESIDENT OF THE BOARD OF LOCAL IMPROVEMENTS OF CHICAGO, ILL.

Mr. SCHILLING. I find myself, Mr. Chairman, in a singular situation. Some months ago I called on Mr. McCormick, the president of the drainage board, and reminded him of the fact that the board previous to the one he is now a member of had made an agreement with the board of local improvements of Chicago to pay 40 per cent for the construction of the conduit over Bubbly Creek, Chicago, which is about Thirty-ninth and Roby streets, to go westward to the avenue, and from there to the outfall of the sanitary channel, and I asked him if he thought there would be any trouble in carrying out that agreement, and I called his attention to the fact that that entire district there, twenty miles square, had no drainage. He said, "Certainly, if the drainage is necessary and the previous board has entered into this arrangement, we will help to carry it out."

I then called his attention to the fact that there was a feeling in the minds of some of the lawyers of Chicago, including the legal department of our board, that the United States Government had some claim there, and that unless we got a permit from Congress enabling us to go through the Illinois and Michigan Canal with those sewers we might be interfered with in a legal proceeding confirming special assessments, and because of that I thought it would be wise to get the consent of the United States Government to pass through the Illinois and Michigan Canal, and also the consent of the State of Illinois.

Mr. STEVENS. You do not know whether you want to pass through one of the even or odd sections, do you?

Mr. SCHILLING. No, sir; I do not. The fact of the matter is, Mr. Chairman, that until we had this thing thrashed out, I was under the impression that there were two distinct grants, one a right of way which was continuous, and the other the alternate sections; but it seems, according to the statements made this morning, that that original grant, the continuous right of way, was not taken advantage of, and now it seems that you have simply an alternate grant, with an easement.

Mr. STEVENS. So that if those two branches of your main sewers that you desire to pass through the Illinois Canal were in an odd section, that is Kedzie and Western---

Mr. SCHILLING. Yes, sir; Kedzie and Western.

Mr. STEVENS. You would have no business here, and we would have no business with this?

Mr. SCHILLING. No, sir.

Mr. STEVENS. So that, so far as you are concerned, you would have no standing before the court.

Mr. SCHILLING. I am trying to explain why even this bill is before the committee. The motive that prompted it, although I did not see

it until I came to Washington, was the desire of the city to pass through the canal with those two trunk-line sewers, which in the nature of things would elevate its navigable features at those points, because our engineers in taking surveys concluded that the top of the sewers would be somewhat above the bottom of the canal; and unless we got such permission from the United States any taxpayer might make the claim that the United States Government had some rights in those dams; and although finally the courts might construe it that the State of Illinois had supreme jurisdiction, there would be enough there to make a peg to hang a legal hat on.

Mr. STEVENS. Do you contend that the United States has a right to destroy the navigability of navigable waterways?

Mr. SCHILLING. We take the position here, and our appearance is based on the assumption, that the United States may have such a reversionary right, and not that our act would impair the navigability of the canal; because we deem that the case of the State of Illinois, which Mr. McCormick has related to you, would imply a desire on the part of the State to abandon that portion of the canal through which we shall go with our sewers. So that we assume, with all of this legislation on the part of the State, that there will be no trouble for us to secure a permit from them to do this. But in the absence of a permit from the United States Government, we think it would give any fighting property owner sufficient standing in the court to cause litigation for many years, perhaps, before the issues could be finally adjudicated. Meanwhile our people were dying out there with pestilence and disease because they had no drainage.

Now, with the interest that I represent, the dominant desire is to construct those sewers and not care particularly who those lands are to be passed on to. That is one of the unfortunate positions that I find myself in as representing the board of local improvements. Mr. McCormick is on the one side asking that these lands be passed to the State of Illinois and that a provision be made that then the State shall pass them over to the sanitary district. Against that I have no objection at all, except to say that if this bill is passed—and I want Mr. McCormick to listen to this—if this bill was passed by Congress and the State of Illinois paid no attention to it and did not pass the lands over to the sanitary district we would not get our sewer, very likely, and we would be just where we were before the bill was passed; and the State of Illinois, through its canal commissioners and its legal department, might contend, just as Mr. Walker has contended here this morning, that the State of Illinois has up to date violated no agreement with the United States Government, and for that reason the United States Government had no right to make cessions of the lands which were given to the State of Illinois under certain agreements and conditions, all of which, up to date, had not been violated; and if they finally won out, which again, perhaps, would be after years of litigation, we would still be there without a sewer.

Before I left the city of Chicago we had the citizens' committee appropriate \$7,500 to put our force to work—all our office force—and the property owners within that area to make a list, and as soon as the list—the scrapping sheet—was completed they would be prepared to hold a public meeting. I am citing this to show you with what interest we are proceeding to try to drain these 24 square miles of territory on behalf of the people who are already living there—a ter-

ritory which is capable of maintaining a million people and which is held back because the people have no drainage—and they do not desire to live there, and those who have homes there are thinking about leaving because of the danger they are constantly subject to by reason of having no way of getting rid of their sewage.

Now, I think that owing to the lateness of the session and the different interests that play around this bill, the opposition to it, possibly Mr. Walker and Mr. McCormick, might join with me in giving consent that this committee should substitute a simple permit to the city of Chicago for the construction of the Western avenue and the Kedzie avenue sewers through the Illinois and Michigan Canal, with an outfall into the sanitary channel. After that we can take up the bill which has been introduced here by Mr. Wilson and fight that out when we have a little more time, and thus we will not cause 60,000 people to continue suffering there as they are doing now simply because there is a contention here as to who these lands belong to and where they should go. That does not help those people any. And I now formally ask Mr. Wilson and Mr. McCormick whether they would not join the city of Chicago in asking for such a permit, and I am willing to here agree that it should read on condition that similar conditions should be granted by the State of Illinois.

Mr. LOVERING. How soon could that be done?

Mr. SCHILLING. All the clerical force of the board of improvement is working every night and every day now. I would like to have this permit, whether conditioned on the consent of the State to give a like permit or an independent permit. I think that possibly, as the general assembly is in session, we will get one from them. But I am perfectly willing, if that will satisfy Mr. Walker, that your consent should be conditioned upon the consent of the State of Illinois, and assuming that we will get that shaped up so that no property owner can go into court and say that the United States Government has a right to these lands, and then give a permit to construct these sewers, and thus overcome the impression that the board of improvement is trying to commit an illegal act by going over lands over which it has no right, and we can let the contract to start work about June for the construction of those sewers.

Mr. LOVERING. How long will it take to complete them?

Mr. SCHILLING. It would take, in my judgment, about two years to construct those two large trunk lines.

Mr. STEVENS. It seems to me from the statement that Mr. Walker has made the odd sections have already been sold and the United States has granted all of its rights. If the main sewer went down through those sections, you do not need to come to Congress.

Mr. SCHILLING. That may be true, but I did not know it until this morning. I was always under the impression that 90 feet on each side of the canal was a continuous, unbroken right of way.

Mr. STEVENS. We do not want to pass any idle act. We do not want to pass any act unless you can show that it is necessary, and it seems to me you can get your relief some other way.

Mr. SCHILLING. I confess—

Mr. STEVENS. This Congress has not any right to adjudicate the claims of the State of Illinois as to this land. We can not do that. All that we can do is to preserve the rights of the United States or to control the rights of the United States in that property. That is all we can

do. Now, what rights we have are disputed, evidently, by the State of Illinois. Mr. Walker is here to notify us that they dispute our claim to a reversion, and whatever claim we have is disputed as to extent and as to title. Now, with that dispute, and an act such as you ask, if concurred in by the State of Illinois, it would be an abandonment by them of that portion of the canal, clearly and expressly, and it would make acute the expression between the United States and the State of Illinois as to that portion of the even-numbered sections. You are asking them to abandon that section of the canal, and I do not believe they will do it.

Now, in view of that, is it not the easiest way about, where that odd-numbered section is open to you, to run your sewer down that section?

MR. SCHILLING. That may be the solution of it; but of course, being governed by such legal counsel as I took before leaving Chicago, and then coming to this city and seeing the opinion rendered by General Davis and the report of Major Riché, it all tends toward the thought that I had come here with, that the United States did have a reversionary right in those lands.

MR. STEVENS. Another thing: you are asking us to decide prematurely, according to the statement of Mr. McCormick, as to whether or not there is an abandonment. Mr. McCormick claims that there is a practical abandonment. As to whether or not there is an actual abandonment is another proposition. Congress is always reluctant to disturb existing conditions. Now you are asking us to rush in and disturb conditions prematurely when it does not seem to me that you show a necessity for it.

MR. SCHILLING. I can only repeat again that such counsel as I have had, and that seems to have been confirmed by General Davis and Mr. Riché, has been to the effect that the United States did have a claim; and that being the case, we thought we could remove such a legal barrier as any property owner might raise by securing a permit that would not prejudice the interests of either the United States Government or the State of Illinois in the Illinois and Michigan Canal.

MR. STEVENS. We would not yield any claim of the United States under any circumstances; that much we will not concede.

MR. SCHILLING. Here is a dispatch which I sent, wishing to be backed up while here in the city, and showing the urgency of the matter I am speaking of. I would like to read this dispatch [reading:]

WASHINGTON, D. C., February 4, 1907.

JOHN A. MAY, 203 City Hall, Chicago, Ill.:

Ask mayor to wire Secretary of War Taft to give aid consistent with the interest of the National Government for remedial legislation that will enable us to construct the Western avenue and Kedzie avenue sewers through the Illinois and Michigan Canal.

Hittell gone to Chicago to-day. Sewer problem for us. Me to stay. Letter follows.

GEO. A. SCHILLING.

So that at no time have I ever requested anything that would make you gentlemen feel that I am calling on you to abandon any interest that you have.

Now, that is the position we are in. I can only say to you gentlemen of the committee, and to you, Mr. Walker, and to you, Mr. McCormick, representing these other two bodies in our State, I representing the city of Chicago, that our citizens in this district are sweating blood for relief. They want it, and they ought to have it; and if this

committee can issue such a permit, and have it passed, as will leave intact the interests of both the United States Government and the State of Illinois, I should like very much for it to do it. This sewer proposition has been pending in our department for some seven years, and it is because of such things as this that our board has been prevented from putting through the improvement.

Mr. STEVENS. It seems to me that you do not keep on very good terms with Colonel Walker or the sanitary district.

Mr. McCORMICK. I have no objection to such a permit.

Mr. WILSON. I would have none.

Mr. WALKER. The effect of constructing the sewer will be to destroy the canal. The top of his sewer, according to his own statement, is going to be above the bottom of the canal.

Mr. SCHILLING. Yes, sir; that is right.

Mr. WALKER. I would have no right to consent to any such proposition for the State of Illinois, and the legislature would have no authority to consent to it. The only resolution that it seems to me would be at all competent or right would be an absolute abandonment by the Federal Government of any control over the situation, and that, I apprehend, you would not consider at all!

Mr. STEVENS. No. On the other hand, any possible act that we would pass would reaffirm any possible right that we had, and would notify the world that we did have such a right.

Mr. WALKER. Yes; and that ought not to be done unless there was a clear right to it.

Mr. STEVENS. It not only would not go through our committee, but it would not stand in the House for an instant. You want to look at the situation as it is. You do not want to fool yourself in this proposition. What you ask, Mr. Schilling, would require the practical abandonment of that section of the canal. According to Mr. McCormick's contention it is abandoned. That would be a form of abandonment; there is no question about that.

Mr. SCHILLING. Here, Mr. Chairman, is the unfortunate predicament of the city of Chicago with respect to these sewers. If the State of Illinois should abandon it, we would have no right of way if it should result in litigation between the Government and the State of Illinois as to who owns the odd sections, and we would be in the same position as we have been in right along.

Mr. STEVENS. You do not know whether you want the odd sections?

Mr. SCHILLING. I know that, but of course you do not blame me for not knowing about that.

Mr. STEVENS. Yes; your attorney should have informed you. I blame you. I blame the officers of your local improvement board for not coming before us with a definite proposition as to what you know. Now, you do not know. It is the business of your attorneys to know just exactly, and they do not know. They do not know where they stand or what they want.

Mr. SCHILLING. You and Congressman Burton and one or two others read the statutes which have been passed, and you were all then of opinion that the statute passed in 1822 was not at all modified by the subsequent statutes.

Mr. STEVENS. We read them and supposed that the canal was constructed under the statute of 1822 as modified by the statute of 1827; but the Supreme Court of the United States, in construing those

statutes and the rights under them, has held that the statute of 1829 did not apply.

Mr. McCORMICK: You were not familiar with that fact?

Mr. STEVENS. They never told us the facts.

Mr. SCHILLING. I did not know those facts. This morning is the first time we have been informed of this. I can only say that I went to the canal commissioner the other day and he called my attention then to the fact that they could not grant a permit for us to do this, and called my attention to the navigable feature of the canal, and that they were obliged to continue that, but he also called my attention to the statute that Mr. McCormick has read this morning and said that after this work had been completed, which is referred to in this statute, then the State will abandon the navigable feature of the canal from this point to that, and possibly then such a thing could be done.

Mr. STEVENS. Until that time there is no use coming before Congress.

Mr. SCHILLING. Later it was held that the United States Government had some rights, and that it would be wise, in order to prevent such disagreeable litigation as might ensue, to get the permission of the United States Government to go through the canal, either upon condition or without condition that the State of Illinois should consent; but I am willing to have it provided that the State of Illinois should give its consent.

Mr. STEVENS. I do not think your attorneys have advised you well. You should have gone to the State of Illinois, and then, if they refused, there would have been no use in coming to Congress. We have no right until after they act. After they have acted and abandoned that stretch of the canal we may have some rights, and then we will see what we can do. But until that time comes I do not see how we could do anything about it. I am speaking with reluctance, but it does not seem to me you are in a hopeless situation, but it strikes me you have another avenue of relief.

As to this permit, the Secretary of War has reported strongly against it, and there is not a member of the committee who would vote for it, and it would not pass through the House if they did, and I think to ask for such a thing now would be premature. That is my opinion. Mr. Lovering can tell you what he thinks about it.

Mr. SCHILLING. Of course if that can not be granted, I have nothing more to say about it.

Mr. LOVERING. I do not think it is possible to do anything at this session.

Mr. SCHILLING. Then, of course, I have nothing more to say. As to the urgency of the need of these sewers, I suppose you are all convinced.

Mr. STEVENS. Oh, yes.

(At 12.20 o'clock p. m. the committee adjourned.)

CHICAGO, February 6, 1907.

Mr. GEORGE A. SCHILLING

(Care of The New Willard, Washington, D. C.).

DEAR SIR: In regard to the proposition to drain the Western avenue sewer and Kedzie avenue sewer through a main sewer to run eastward on Thirty-seventh street, or some adjacent street, to the Chicago River, I beg to say that such a sewer would have to extend as far east as Ashland avenue or more.

In order to drain the territory which it is proposed to drain by means of the Kedzie avenue sewer and the Western avenue sewer, it would have to be at least 12 feet in diameter, and very likely larger. The surface of the ground east of Western avenue is less than 10 feet above Chicago datum. This means that with a sewer put as low as possible the top of the brickwork would be about at the surface of the ground; and, although the grades of the street are about 3 or 4 feet above the surface of the ground, the sewer would be so shallow that when flowing full it would flood any basement in its entire course. The cost of such a sewer would be excessive, and it would be more economical to build inverted siphons under the old canal and to drain directly south to the sanitary district canal, if we are unable to cross the old Illinois and Michigan Canal in the manner that we propose.

If necessary, I am ready to come to Washington to explain matters to the committee, but I do not consider that I can make matters any clearer than the above statement does. It seems to me that there can be no good objection to the actual abandonment of the old canal north of Lockport when the new locks are in place, although there may be serious objection for various reasons to turning the old canal and adjacent lands over to the sanitary district. If there seems to be much opposition to such a procedure, I would suggest that Congress be asked to merely relinquish any claims the Government may have on this canal to the State of Illinois, and leave the matter of final disposal of the lands to the State.

Yours, very truly,

C. D. HILL,
Engineer, Board of Local Improvements.

CHICAGO, February 11, 1907.

MR. GEO. A. SCHILLING

(Care of The New Willard, Washington, D. C.).

DEAR SIR: Yours of February 9 just received.

In regard to building sewers in Kedzie avenue and Western avenue, so that the top of the brickwork will not extend above the bed of the old canal, I will say that such construction is possible, though not advisable. In fact, I had plans for such a sewer in Western avenue prepared, and submitted the same to Mr. Ra dolph for approval; and while he approved it under the conditions that had previously existed, viz, that the old canal was in existence and had to be considered, he declined to approve it under the new conditions, which were that the old canal would no longer be used after the necessary lapse of time for the construction of the sewer. In other words, such a sewer can be built if it be determined to maintain the old canal as a navigable stream. The cost of such construction will be considerably greater than if the sewer were run straight through at the regular grade, and the cost of annual maintenance will be considerably greater, for the reason that there will be a deposit of sand and gravel that may be washed into the sewer in the deepest portion under the canal.

At one time I prepared a plan for a sewer in Kedzie avenue to pass under the old canal by means of an inverted siphon. These plans were submitted to the State commissioners, and finally received their approval, depending upon the city entering into a proper contract relating to the matter. When this contract was submitted to Mr. Blocki, superintendent of public works, he declined to sign it, for the reason that he was convinced that the old canal would be abandoned and that such a construction would be expensive to build and maintain and that it would be impracticable to proceed with such construction.

If it can be clearly demonstrated that the old canal must remain a navigable stream, then these sewers must be constructed as inverted siphons under the canal. On the other hand, if we were to pass an ordinance and levy an assessment for such a form of construction, objectors would certainly raise the point that such construction was expensive and unreasonable, and it is probable that their objections would be sustained by the courts.

I have read your letters to Mr. May and the inclosed opinion from the Attorney-General, and assuming that the opinion of the latter is correct, it still remains true that the old canal is still under the jurisdiction of the State of Illinois. The old canal has never been under the jurisdiction of the War Department as a navigable stream. If we must obtain permission from anyone for the crossing of this canal, it must be obtained from the State and not from the National Government. If the construction of the proposed sewer and other acts, either by the city or the State, should result in the abandonment of the canal as a navigable canal, and the opinion of the Attorney-General be correct, then and then only will the lands along the canal revert to the National Government, and such reversion will not affect the right of the public to use

the streets which have for years been open to cross such strips of land. I therefore fail to see any reason why we should ask permission in any form from the National Government for the construction of our sewers.

In regard to the proposed construction of pumping stations, they would be much more expensive to build and operate than the inverted siphons which I have referred to above, and in my opinion there is no occasion for considering the construction of such pumping stations or asking for any appropriation for them. In any event we could not ask for an appropriation for such pumping stations until we had determined upon some definite plan in regard to them. The cost of the Jackson Park avenue pumping station was about \$160,000, and while I am uncertain as to the cost of maintenance, I expect it will be about \$25,000 a year.

I will try to send you under separate cover some of the plans and maps you ask for, but I am uncertain that I have prints of the Jackson Park avenue sewer system.

Yours, very truly,

C. D. HILL,
Engineer, Board of Local Improvements.

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES,
Washington, D. C., February 7, 1907.

HON. FRED C. STEVENS, *Chairman, Washington, D. C.*

MY DEAR MR. STEVENS: Hon. George A. Schilling, president of the board of local improvements of the city of Chicago, writes me inquiring to what extent freight traffic is still carried on by boat on the Illinois and Michigan Canal north of Joliet, and to what extent interests adjacent to the canal, such as mine, would be affected by the construction of a sewer through the canal at Kedzie and Western avenues, the arch of which would be a considerable height above the bottom of the canal, and thereby necessarily become an impediment to navigation.

In reply to his questions, I beg to say for your information that prior to the completion of the sanitary district drainage channel, which parallels the Illinois and Michigan Canal, the Western Stone Company, of which I am president, ran a large number of boats on the Illinois and Michigan Canal between Lockport, Lemont, and Chicago. Several other companies engaged in similar business did likewise. The amount of tolls paid by my company to the State for the privilege of operating on the Illinois and Michigan Canal sometimes reached \$30,000 per annum.

The sanitary district board, under the law, has no right to charge tolls for navigation on the channel constructed by it. All the great industries north of Lockport which shipped by water moved to the drainage channel when it was opened several years ago and now transport their commodities over that waterway.

The result is that between Joliet and Chicago there is now but an occasional grain boat running, and that from the Norton Mills at Lockport. The water supplied to this stretch of the Illinois and Michigan Canal is pumped from the Chicago River at a very great annual expense. The State receives no revenue except from the water power at the Norton Mill at Lockport, to supply which it is necessary to expend the money for the pumping above referred to.

The legislature of the State recently passed a law declaring in favor of the abandonment of the canal from a point near Lockport to Chicago, which law provides for a connection with the sanitary district channel between Lockport and Romeo. This connection is now being constructed. It will be completed within three or four months. After that the Illinois and Michigan Canal traffic will run through the sanitary district channel from the point of the connection, and pumping will no longer be necessary.

I think it is safe to say that the sewer which the city of Chicago seeks authority to construct would, under the circumstances, be no impediment to navigation, because, while there is little or none now, there will be none at all when the connection which I have endeavored to describe is made between the two canals.

Very sincerely, yours,

MARTIN B. MADDEN,
President Western Stone Company.

[H. R. 24271, Fifty-ninth Congress, second session.]

A BILL in relation to the Illinois and Michigan Canal and granting to the State of Illinois all rights, easements, and title of the United States in, to, and into that portion of said canal lying between the upper basin situated in the city of Joliet and Lake Michigan.

Whereas heretofore the United States, by act of Congress passed on, to wit, March thirtieth, eighteen hundred and twenty-two, authorized the State of Illinois to survey a route for a canal connecting the Illinois River with the southern bend of Lake Michigan, and reserving ninety feet of land on each side of said canal from sale and vesting the same in said State for canal purposes upon certain conditions, reserving certain rights to the United States; and

Whereas, in order to assist the State of Illinois in the construction of said canal, the United States, by act of Congress passed on, to wit, March second, eighteen hundred and twenty-seven, granted to said State a quantity of land equal to one-half of five sections in width on either side of said canal from one end thereof to the other, to be disposed of by said State as it saw fit, for the purpose of constructing said canal; and

Whereas said State of Illinois, by act of legislature passed in eighteen hundred and twenty-nine, duly accepted the grants of Congress aforesaid and surveyed, laid out, and constructed the canal as by said grants proposed, which said canal connected Lake Michigan with the navigable waters of the Illinois River by a channel leading from a point near Utica, Illinois, to a point on the South Branch of the Chicago River about four miles from where said river empties into Lake Michigan, said canal having been constructed and maintained of a size sufficient for canal-boat navigation; and

Whereas said State of Illinois, by act of its legislature passed in eighteen hundred and ninety-nine, provided for the incorporation of the Sanitary District of Chicago, a municipal corporation, and authorized said corporation, for the purpose of providing an outlet for the drainage and sewage of the city of Chicago and contiguous territory, to construct a channel whereby the sewage and drainage of said district was to be carried into the Des Plaines River by water from Lake Michigan, said channel to be of such dimensions and so constructed as to be navigable by the vessels of the Great Lakes and upon its completion to be a navigable stream; and

Whereas the said Sanitary District of Chicago, pursuant to its said authority, has constructed a channel parallel and adjacent to the Illinois and Michigan Canal from the latter's connection with the Chicago River to the said upper basin at Joliet; and

Whereas said channel of said district is of sufficient size and dimensions to accommodate not only canal-boat navigation, but also navigation of the vessels of the Great Lakes, and is completed to within a short distance of said upper basin and will within a few months be connected with said upper basin and will then afford all the accommodation for commerce heretofore afforded by the said Illinois and Michigan Canal between said upper basin and Chicago, and much more; and

Whereas said channel of said Sanitary District of Chicago has been constructed by said district at an expense of nearly fifty millions of dollars, and forms the first section of the deep waterway from Lake Michigan to the Mississippi River; and

Whereas the State of Illinois has authorized said district, upon connecting its channel with the upper basin at Joliet, to cut across and destroy the Illinois and Michigan canal between said points; and

Whereas in the judgment of Congress the old right of way of said Illinois and Michigan Canal between said upper basin and said Chicago River, being adjacent to said right of way of said Sanitary District of Chicago, will be of more service and benefit to the people of that community and of the State of Illinois by being made a part of the said right of way of the Sanitary District of Chicago: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, granted to the State of Illinois all the rights, easements, interest, and title of every kind and nature now owned or possessed by the United States in, to, and into that portion of the Illinois and Michigan Canal lying and situated between the upper basin in the city of Joliet, Illinois, and Lake Michigan, it being the intention of Congress by this act to give to said State a clear title to the bed, banks, towpath, and reserved lands on either side of said canal, and to all the appurtenances and appliances appertaining and belonging to said canal, including all locks, basins, water rights, water privileges, and water power heretofore possessed and enjoyed by said canal: *Provided, however,* That this grant is made on the express condition that said State will, within six months after the passage of this

act, grant unto the Sanitary District of Chicago all the rights, titles, easements, and privileges hereby granted to it, together with all other property rights, title, interest, and easements which said State has in said portion of said Illinois and Michigan Canal, and in case of the failure of the State of Illinois to comply with the provision of this proviso by granting over to the Sanitary District of Chicago then this act to be null and void.

[Filed by Mr. Charles L. Walker.]

In re title of State to the Illinois and Michigan Canal.

Hon. W. H. STEAD, *Attorney-General*:

Pursuant to your request to give you a brief of authorities having reference to the title of the State to the Illinois and Michigan Canal, and what effect thereon an abandonment of the canal would have and the accuracy of the opinion of Judge-Advocate-General George B. Davis, to the Secretary of War, of date January 31, 1907, in connection with the bill introduced by Mr. Wilson for the transfer of that portion of the canal lying between Joliet and Chicago, I respectfully submit the following:

On March 30, 1822, Congress passed an act authorizing the State to locate a canal through the public lands connecting the Illinois River with Lake Michigan, and granting it 90 feet of land on each side thereof, on condition that the State should survey and file a map of the canal with the Treasury Department within three years, and if the ground should ever cease to be used for a canal for navigation the grant should become void and of no effect.

Under this law no survey was made and no plat filed. Therefore no rights were acquired under it.

In 1826 the legislature memorialized Congress for aid in the construction of such canal, and Congress responded with the act of March 2, 1827, granting to the State in fee one-half of five sections in width on each side of the canal when located, authorizing the legislature to dispose of the same for canal purposes, and no other, and to convey the fee-simple title to purchasers.

Under this act the canal was constructed, and you will notice this act contains no reservation whatever, of reversion or otherwise, but is an absolute grant.

You will note further that the act of March 30, 1822, granted no land to the State except for right of way and 90 feet on each side thereof, while the act of 1827 is a grant of land of five sections in width on each side of the canal when located.

The question of the rights of the State first came to the attention of our supreme court in the case of *City of Chicago v. McGraw* (75 Ill., 566, 572-573).

The court, after quoting the law on page 573, says a strict compliance with the law of 1822 "is made indispensable by the act of Congress to the vesting of the rights conferred in the State."

The court then refers to the memorial of 1826, the act of Congress of 1827, and the act of the legislature of 1829, and on page 574 says:

"The act of Congress of March 2, 1827, does not purport to be an amendment of the act of March 30, 1822, nor does it, even by inference, refer to it. In our opinion these acts constitute distinct and independent offers by the Government of the United States, of aid to the State in the construction of canals, and the latter one having been accepted, without reference to the terms and conditions of the former, the State is only entitled to the grant which it conveys."

This question was next before the supreme court in the case of *Werling v. Ingersoll* (182 Ill., 25), and the court, by reference to the *McGraw* case there, reaffirms its holdings that the court acquired no rights under the act of 1822.

This last case was taken to the Supreme Court of the United States, and is found reported in the 181st U. S., p. 131, wherein the judgment of our supreme court was affirmed. In that case the court reviews at length the legislation of Congress and the State, and on page 139 says: "It can not be denied that between 1822 and the passage of the act of Congress in 1827, no route had been adopted for the canal and no work of construction had been commenced thereon," and not until after January 22, 1829.

Yet you will note by the express language of the act of 1822 that a map of the route selected must be filed within three years, or the grant should become void and of no effect.

On page 140 the court refers to the difference between the acts of 1822 and 1827, and on page 141 says:

"Upon all the facts in the case it is plain that the act of 1822 was mutually abandoned by the parties so far as it concerned the land grant after the passage of the act of 1827, and that the right of way through the reserved sections was treated and regarded as impliedly granted by the latter act, under which the larger grant was made, and that the map was filed under that act, and none was ever filed under the act of 1822."

These decisions would seem to put beyond all question the fact and law that the canal was built under the law of 1827, and not under the law of 1822, and the law of 1827 granting a fee simple title to the State without any reservation whatever as to title the State is the owner of the canal bed and the right of way as it now exists, and that the Federal Government has no authority over it whatever, and therefore should not pass any legislation with reference to it or attempt to have any control thereover.

The only other provision in the act of 1827 under which any claim could possibly be made is that providing that the canal should forever remain a public highway and give "free use of the canal by the United States Government."

That proviso, however, does not refer to the title granted, and can not be construed as affecting the title.

That this is so shown by the case of *Walsh v. C. H. V. & A. Rwy. Co.*, reported in 176 U. S., p. 469.

That case involved the construction of a similar act of Congress granting to the State of Ohio 500,000 acres in aid of construction of canals. That act, like the Illinois act, provided that the land should be sold for the purpose of the construction of the canal, with the same language as to perpetuity and free use by the United States. The legislature of Ohio, in 1894, passed an act abandoning one of the canals and leasing it to a railroad company.

The plaintiff, owning land on both sides of the canal, brought suit to enjoin the railroad company from constructing the railroad as in violation of the act of Congress granting the land and the Constitution of the United States as impairing that contract. The supreme court of the State of Ohio held that the complainant had no cause of action and that the act of the legislature of Ohio was not in violation of the act or the Constitution, and the Supreme Court of the United States affirmed this holding, and on pages 477-478 declare that the "proposed use of the right of way for a railway was an analogous public use to that of the canal, and was not in violation of the act of Congress or the Constitution."

This decision clearly holds that even though the legislature of Illinois had in fact abandoned the Illinois and Michigan Canal, that it could, nevertheless, use it for other "public highway purposes."

The fact is, however, that the legislature of Illinois has not abandoned the canal, but it still using it, and therefore no possible question of abandonment or loss of title is now presented which would even give Congress "the color of right" to intermeddle by passing the Wilson bill or any act relating to the Illinois and Michigan Canal.

Respectfully submitted.

C. L. WALKER.

[Filed by Mr. Robert R. McCormick.]

ILLINOIS AND MICHIGAN CANAL.

By the provision of the constitution of 1870 the Illinois and Michigan Canal can never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to the vote of the people of the State at a general election and have been approved by a majority of the votes polled at such election. Whether this provision would apply to a sale to the sanitary district is a question of legal construction.

The Illinois and Michigan Canal was completed in 1848, and for a number of years was used as a means of transportation of freight and passengers by canal boats, and up to about the time of the adoption of the constitution performed a great service in that respect. At the time of the constitutional convention in 1870 the continued prosperity of the canal was in such grave doubt that a provision was enacted preventing the State's credit being loaned for the purpose of aiding the canal and confining its expenditures for enlargement and improvement to its surplus earnings.

The falling off in tolls from 1875 to 1901, together with disbursements during the same period, is shown in the following table:

Year.	Gross expenses.	Tolls.	Year.	Gross expenses.	Tolls.
1875	\$74,511	\$107,081	1889	\$85,478	\$60,605
1876	91,596	113,293	1890	75,125	55,112
1877	110,018	96,113	1891	72,592	49,557
1878	82,330	84,330	1892	67,137	54,987
1879	97,701	89,064	1893	59,522	38,702
1880	125,601	92,926	1894	54,258	44,928
1881	108,223	85,130	1895	71,942	39,106
1882	104,412	85,947	1896	77,552	32,100
1883	116,756	77,975	1897	63,307	33,065
1884	99,289	77,102	1898	78,986	38,570
1885	86,393	66,800	1899	91,196	41,021
1886	72,430	62,513	1900	88,317	13,867
1887	71,385	58,024	1901	111,002	8,120
1888	76,845	56,628			

In 1903 an attempt to secure funds needed for the maintenance of the canal was defeated by injunction in the suit of *Burke v. Snively*, and the canal is now without means except such as are earned from its ice privileges, sale of lands, rental of water power, and money derived from condemnation proceedings. From 1886-87 to 1899-1900 the total receipts of the canal from every source and its disbursements were as follows:

Year.	Total receipts.	Total disbursements.	Year.	Total receipts.	Total disbursements.
1886-87	\$90,637.76	\$78,603.69	1898-94	\$69,834.71	\$57,500.39
1887-88	84,084.00	83,340.59	1894-95	86,068.51	75,948.79
1888-89	100,937.51	90,188.00	1895-96	61,432.35	82,700.15
1889-90	82,680.66	80,454.27	1896-97	101,492.32	74,175.09
1890-91	79,006.01	79,300.07	1897-98	111,118.13	78,987.74
1891-92	79,328.64	72,912.10	1898-99	131,439.28	91,196.76
1892-93			1899-1900	109,521.08	88,317.00

The above included legislative appropriations made from time to time in spite of the constitutional provision, namely:

1879, for maintenance	\$30,000
1891, to renew gates and make necessary repairs in Henry and Copperas Creek locks	25,000
1897, for repairs	100,000
1899, for unforeseen emergency	50,000
1901, for extraordinary expenses	150,000
1903, for maintaining navigable conditions, etc	152,950

For many years the canal has been practically useless as a waterway, and the traffic over it has steadily diminished until now it is practically nothing. The completion of the main drainage channel from Robey street, Chicago, to Lockport (now in course of completion to Joliet, where it will connect with the Illinois and Michigan Canal) has substituted a deep waterway paralleling the Illinois and Michigan Canal between these points and has made its use as a waterway a thing of the past, even were it not now practically filled up and abandoned. That part of the canal is to-day a burden to the State, producing an income of \$11,000, which is wiped out by one single charge for operating the Bridgeport pumping station at \$18,000 per annum. Its items of receipts are as follows:

From Norton & Co.:

For water power under 13-year lease, lot 1, block 122	\$300
For water power under 13-year lease, lot 6, block 122	200
Surplus water on 20-year lease	10,000

The Bridgeport pumping works were formerly operated by the city until the completion of the drainage canal, when the city abandoned their operation and the Illinois and Michigan Canal commissioners were compelled to operate them at a cost of \$25,000 per annum solely for supplying water power under their contract with

Norton & Co. In 1902 an electric plant was put in and paid for out of the appropriation by the legislature, at a cost of \$—, which is supplied with power from the Economy Light and Power Company at Joliet, by wire running along the right of way of the Illinois and Michigan Canal from Joliet to the Bridgeport pumping works.

The Illinois and Michigan Canal commissioners present various arguments against abandoning the canal, namely, that it is a connecting link between Lake Michigan and the Illinois and Mississippi rivers and the Hennepin Canal, and that there is still some transportation along its route.

Unquestionably the canal was important as a regulator of freight rates years ago, but is no longer so, the total number of boats reported to be running upon it in 1902 being but 41.

Although originally considered important in connection with the construction of the proposed ship canal, it is no longer so. The route of the proposed ship canal will not take into consideration the existence of the Illinois and Michigan Canal.

The principal argument of the canal commissioners, namely, the importance of the canal as a regulator of freight rates for transportation, admitting that it is used for any boats at all at the present time, does not affect that part of the canal which parallels the main drainage channel, as the channel has become a substitute in the matter of transportation.

The right of way of the canal can be made of great utility to the sanitary district in connection with its plan of real-estate development, and a conveyance of the Illinois and Michigan right of way to the district will relieve the State of an annual drain upon its treasury and open the way for converting this right of way into a useful and income-bearing property.

BRIEF.

Five hundred thousand dollars were ceded by the United States to Illinois for the building of the Illinois and Michigan Canal, under the following proviso:

“Provided, That said canal when completed shall be and forever remain a public highway for the use of the Government of the United States, free from any toll or other charge for any property of the United States, or persons in their service, passing through the same: Provided, That such canal shall be commenced within five years and completed within twenty years, or the State shall be bound to pay to the United States the amount of land previously sold, and that the title to the purchasers under the State shall be valid.”

It has been contended that the proviso constituted a contract between the State of Illinois and the United States obligating the State to forever keep and maintain the canal as a public highway.

In the case of *Walsh v. Columbus, Hocking Valley and Athens Railroad Company* (176 U. S., 469), where a cession of lands to the State of Ohio for canal purposes was made by the Government upon a similar condition, upon the sale of the canal which operated to throw it into disuse, the contract question was raised. The clause thereof read as follows:

“Provided, That the said canals when completed, shall be and forever remain public highways for the use of the Government of the United States, free from any toll or charge whatever for any property of the United States or persons in their service passing along the same.”

In passing upon the contract question the Supreme Court of the United States used this language:

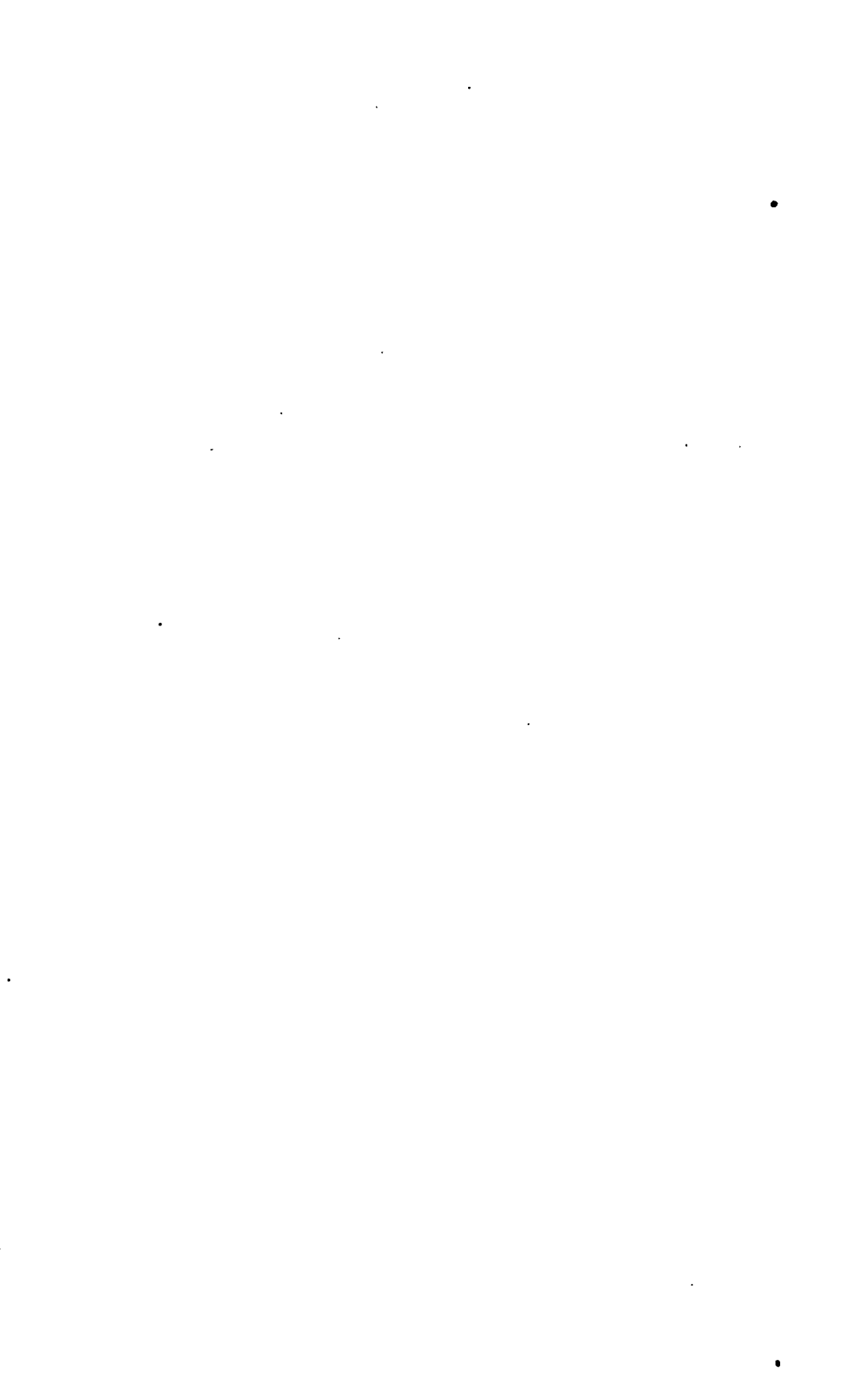
“The object of the act was to facilitate and encourage public improvements, but not to stand in the way of the adoption of more perfect methods of transportation which might thereafter be discovered. Had the question of internal improvements arisen ten or fifteen years later, when railways began to be constructed, it is quite improbable that the State would have embarked upon this system of canals or that courts would have aided it in the enterprise. Waiving the question whether the State could have abandoned the lands upon which these canals were built as public highways, we think it entirely clear that Congress could not have intended to tie the State down to a particular method of using them when subsequent experience has pointed out a much more practicable method which has supplanted nearly all the canals then in use.

“There was no undertaking to keep up the canals for all time, and we think the proper construction of the proviso is that the Government should be entitled to the free use of the canals so long as they were maintained as public highways, and that the act of 1894 leasing these lands to the defendant for analogous purpose, it is no violence to the contract clause of the constitution.”

Our own court, in the case of *Burke v. Snively* (208 Ill., 358), discusses this question of contract with the United States, but does not decide it. This same court holds that "the canal has practically fallen into disuse for any of the purposes of transportation of either persons or property, and has been perverted to mere commercial purposes of supplying water power to those along its banks and selling privileges to cut ice from its pools. It is no longer a highway of commerce."

So that the question of abandonment as a highway of commerce seems practically to have been disposed of as matters stand at present. The conveyance of the canal right of way from Chicago to Joliet would not be an abandonment but really a substituting of another highway of commerce in lieu thereof.

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POST-OFFICE APPROPRIATION BILL, 1908.

HEARINGS

BEFORE SUBCOMMITTEE NO. 1 OF THE
COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
HOUSE OF REPRESENTATIVES.

JESSE OVERSTREET, CHAIRMAN.

JOHN J. GARDNER.

HOWARD M. SNAPP.

THOMAS HEDGE.

JOHN A. MOON.

WILLIAM H. STAFFORD.

JAMES M. GRIGGS.

DAVID E. FINLEY.

JANUARY, 1907.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1907.



SUBCOMMITTEE NO. 1 OF THE
COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
Tuesday, January 8, 1907.

HEARINGS BEFORE SUBCOMMITTEE NO. 1.

**STATEMENT OF MR. WILLIAM J. VICKERY, CHIEF INSPECTOR,
POST-OFFICE DEPARTMENT, OFFICE OF THE POSTMASTER-
GENERAL.**

SALARIES OF INSPECTORS.

The CHAIRMAN (MR. OVERSTREET). Mr. Vickery, I believe you make no recommendation for any changes as to amounts of appropriation.

Mr. VICKERY. Except in the clerk hire at the division headquarters.

The CHAIRMAN. You ask for \$5,000 additional there and \$2,000 additional for incidentals. I would like, however, if you have the data, to have you advise the committee of the number of post-office inspectors who are now employed in the various grades that are authorized by the statute. You will note on page 3 of the skeleton bill a table bearing this information, which was secured, I think, by correspondence with yourself the latter part of November.

Mr. VICKERY. The number now employed is practically the entire number provided for.

The CHAIRMAN. Is it practically the same as appears in the table in the skeleton bill on page 3? The total number authorized is 377, and on November 15, 1906, there were 369 employed. The only class in which there are any vacancies was, I believe, the class of the \$1,200 grade.

Mr. VICKERY. We endeavor to promote to fill those vacancies as they occur.

The CHAIRMAN. Are there still vacancies in the \$1,200 class?

Mr. VICKERY. Yes; we have filled those in the meantime, and have pending now appointments to fill new vacancies up to the full amount. There may probably be five or six places in the \$1,200 grade now vacant. That, of course, is where we make our appointments and where the changes are shown by resignation and removal.

The CHAIRMAN. What proportion of the force, or about how many, are employed in connection with the inspection of accounts in post-offices, or what is known as the examination of postmasters' accounts.

Mr. VICKERY. Do you mean the regular work of the old inspectors?

The CHAIRMAN. Yes, sir.

Mr. VICKERY. I should say that of the entire number perhaps 140 or 145 are on the rural service and the remainder in the regular inspection service.

The CHAIRMAN. That is true, but a part of those in the regular inspection work are on depredation work and violations of law, are they not?

Mr. VICKERY. We shift them into everything; a man who works on accounts also works on depredations.

The CHAIRMAN. About how many inspectors are usually employed exclusively in the inspection of accounts or examination of postmasters' accounts.

Mr. VICKERY. I could not tell that because the inspector takes charge of a territory or district, and every kind of post-office work in the counties included in his territory is sent to him.

The CHAIRMAN. Can you give even an approximate estimate of the number of inspectors engaged in the examination of the accounts of postmasters of the first class?

Mr. VICKERY. They are not so divided, Mr. Chairman.

The CHAIRMAN. Haven't you, from your experience in the supervision of the work, some kind of a guess as to how many there are?

Mr. VICKERY. I could not guess because, as I say, we give a certain number of counties to an inspector. Every kind of work originating in those counties goes to that inspector—the inspection or the auditing of the offices, any investigations of violations of law, the apprehension of any thieves in the service—every one of the cases that occurs in those counties goes to the inspector who has charge of them.

The CHAIRMAN. Do you mean that you do not examine the accounts of postmasters of the first class excepting upon request of the First Assistant Postmaster-General?

Mr. VICKERY. Every money-order office has a case made up for investigation for the counting up of the office every year, and an inspector visits a money-order office for the purpose of counting it up practically once a year.

The CHAIRMAN. Does he do that exclusively upon your direction, or upon the request of the First Assistant Postmaster-General?

Mr. VICKERY. Those cases are made up by the chief inspector. The First Assistant Postmaster-General frequently asks for a special investigation of an office, and frequently for an investigation of charges against the postmaster, but that is in addition to the regular annual inspection that we attempt to make of every money-order office.

The CHAIRMAN. Then you have no estimate to make upon the number employed exclusively in the examination of accounts of postmasters of the first class?

Mr. VICKERY. There are none that are so employed exclusively.

The CHAIRMAN. Well, I mean as to what number would be necessary?

Mr. VICKERY. No; there is no way to do that.

The CHAIRMAN. If an arrangement should be made for a different method of auditing the accounts of postmasters of the first class, you are unable to state to what extent your service would be relieved from that service?

Mr. VICKERY. No; there is no way to estimate that.

The CHAIRMAN. I would be glad if you, in a general brief statement, would explain the success or failure of the merger in the service of the rural agents and the post-office inspection service which was authorized by the current appropriation bill.

Mr. VICKERY. I believe that from one point of view the Fourth

Assistant Postmaster-General could tell better than I, but I know this, that since the merger the rural agents have been doing as much of the work as possible; there has been no complaint about the rural work, and I believe it has been done fully to the satisfaction of the Fourth Assistant. I know that the methods of work have been improved by the requirement of more strict accountability for the cases handled—that is, we have held the former rural agents down to a stricter accounting in their pay accounts and to greater promptness in their work.

The CHAIRMAN. What is the practice as to the examination, either for installation or inspection, of the rural routes? Is that given over exclusively to those who originally served as rural agents?

Mr. VICKERY. Absolutely, with the exception, as I think I told you last year, that in the Denver division there has not been enough work to keep one man busy, so that the old line inspector there for some time past has done what rural work was to be done. I am satisfied the order given to have all rural work done by former rural agents has been lived up to.

The CHAIRMAN. Do these men who were formerly rural agents and who have been transferred to the inspection service do any work that was formerly performed exclusively by post-office inspectors?

Mr. VICKERY. They have begun recently to do some of it.

The CHAIRMAN. What class?

Mr. VICKERY. They will take up, and are beginning to take up, the inspection of smaller money-order offices and also the depredations on rural boxes and charges against rural carriers, as well as complaints about improper rural service that used to be handled by the inspector.

The CHAIRMAN. You have asked for an increase in the compensation of clerks and laborers; that is, you have asked for an increase from \$95,000, the present appropriation, to \$100,000. What is the purpose of that increase, additional clerks or increase of salaries to present clerks?

Mr. VICKERY. The present force, the force that I reported to the clerk of the committee some months ago, has had to be increased by one clerk since. Our present roster of salaries would require the payment every year of \$96,620; \$95,000 is appropriated. By reason of having held vacancies pending certification of new clerks we shall have enough to run us through this year, but the present clerical force, with the increase of work being done, requires \$96,620, as against \$95,000 appropriated.

The CHAIRMAN. In the merger of the rural agents and the headquarters of the rural division with the post-office inspection service there were a number of clerks also transferred, were there not?

Mr. VICKERY. Yes, sir.

The CHAIRMAN. Were they distributed to the various inspection headquarters?

Mr. VICKERY. They were. We had to reduce some. The appropriation was \$109,000, and it was reduced to \$95,000.

The CHAIRMAN. Some clerks were dropped?

Mr. VICKERY. Absolutely, and some were transferred into the department.

The CHAIRMAN. By the merger were you not able to effect some economies in the clerical work at headquarters?

Mr. VICKERY. We have, in other words, done with \$95,000 this year what required \$109,000 appropriated the year before.

The CHAIRMAN. There are 15 division headquarters of inspection service?

Mr. VICKERY. Yes.

The CHAIRMAN. Under date of November 17, 1906, in answer to a personal inquiry of my own, you sent me this table, which shows the distribution of these clerks. Is there any material change in this distribution now from what was in effect from the middle of November last?

Mr. VICKERY. I think the only material change is the addition of one \$900 clerk at Chattanooga, Tenn., by reason of the increase in rural work.

The CHAIRMAN. For the purpose of the record I will insert this table, which gives the names of the division headquarters and the clerks of the various grades employed in the middle of last November.

Following is the table:

POST-OFFICE DEPARTMENT,
OFFICE OF CHIEF INSPECTOR,
Washington, November 17, 1906.

Clerks at division headquarters.

	\$1,600.	\$1,400.	\$1,200.	\$1,100.	\$1,000.	\$900.	\$660.	Total.
Boston, Mass.	1		1		3			5
Chattanooga, Tenn.	1	1	2			2		6
Chicago, Ill.	1	1	4	1	1		1	9
Cincinnati, Ohio.	1	2		1	1	1	1	7
Denver, Colo.	1		1					2
Kansas City, Mo.	1	1		1	2			5
New Orleans, La.	1		2		1			5
New York, N. Y.	1	1	2	2	1			7
Philadelphia, Pa.	1	1	3		1			6
St. Louis, Mo.	1		5	1				7
St. Paul, Minn.	1		2		1			4
San Francisco, Cal.	1		2		1			4
San Juan, P. R.	1							1
Spokane, Wash.	1			2				3
Washington, D. C.	1	1	2		1	2		7
Total.	15	9	26	8	13	5	2	78

The CHAIRMAN. You ask for an additional \$2,000, as appearing on page 4 of the skeleton bill, for necessary miscellaneous expenses at division headquarters. It is now \$6,000. What is the purpose of that?

Mr. VICKERY. I think, Mr. Chairman, that I shall ask you to cut that \$2,000 out. We have the experience of six months now, and I find the present appropriation will be enough. This is the first time that that item has been segregated, and we did not know how it could be handled.

The CHAIRMAN. Have you found from the experience under this merger of the rural and post-office inspection service that you will probably be able to efficiently perform both services even with fewer men than you now have by reason of the gradual conclusion of the major portion of the rural work?

Mr. VICKERY. That is rather a hope than a certain fact so far, because we are depending upon the Fourth Assistant for the amount of rural investigation. I have been informed that they are going to

ask for an annual inspection of every rural route. If they do that I am sure that we shall be kept more than busy, because that never has been undertaken before. I personally doubt the desirability of anything of that kind.

For another year, however, we shall be busy with the inspections they are ordering of rural routes before we get them into line as they should be, but it does not seem to me that there will be any necessity, after we get the service reasonably established and inspected the first time, to make any inspection of the rural routes, because they will stay as placed, the changes will be minor and few, and the rural work in that way ought to be materially lightened.

Mr. SPERRY. How much increase is this over last year, if any?

The CHAIRMAN. Only \$5,000 on the total appropriation for the post-office inspection service.

Mr. STAFFORD. Were there any promotions in the salaries of clerks at the various division headquarters during the past year?

Mr. VICKERY. Yes; there have been some.

Mr. STAFFORD. How general have those promotions been?

Mr. VICKERY. I could not tell that because I have not kept those figures as the vacancies have occurred. We did not make any for some time, but reductions rather, during the first part of the year; but there have been several promotions from \$1,400 to \$1,600 during the year. You have the figures of the previous year and can make the comparison perhaps more directly than I could.

Mr. STAFFORD. We only have the figures of those clerks who are assigned to the division headquarters of the rural mail service, but under the bill of 1906 there was no segregation of clerks as to those assigned to inspectors' headquarters. Would there be any criticism as to segregating clerks required at the various division headquarters according to the salaries received?

Mr. VICKERY. I think not, excepting in this one respect, Mr. Stafford; if you have a segregation of clerks' salaries, to take care of the work properly would perhaps involve a little bit larger appropriation; for instance, just as I said, we are able from a lump sum to employ extra clerks to make up for vacancies and absences, and that kind of thing, by using the accumulated surplus. We ought to have a larger amount appropriated if you segregate.

Mr. STAFFORD. Can you state the amounts that will be expended during the present year out of the item found on page 3 of the skeleton bill, for per diem allowance of inspectors in the field while traveling on official business, etc.

Mr. VICKERY. That is a matter that nobody can state in advance because it is all contingent on the amount of travel.

Mr. STAFFORD. Can you estimate how much of the \$350,000 appropriated in the last bill would be used during the current fiscal year?

Mr. VICKERY. No, that would be impossible to estimate. It will be a guess only, because the number of inspectors who happen to be absent, or the number of vacancies caused by sickness or leaves, all goes into that, and it is impossible to estimate it in advance.

Mr. STAFFORD. Last year an estimate was furnished as to the amount which was to be used out of this item. What is the reason that can not be furnished this year?

Mr. VICKERY. I do not see how it could have been sent as an estimate.

Mr. STAFFORD. Yes, giving the amount of money expended for the first six months of the fiscal year and using that as a basis for the amount that will be expended for the ensuing six months.

Mr. VICKERY. I think, possibly, I can give you the same figures as an estimate on that. I have here a table showing from July to October 31 the amount expended for per diem, which was \$108,824.

Mr. STAFFORD. Can you give us any estimate as to the amount that will be expended of the item found on page 4 of the skeleton bill for traveling expenses of those inspectors without per diem, for which an appropriation of \$70,000 was made last year?

Mr. VICKERY. From July 1 to October 31 the expenditure from that amount was \$16,427. Of course, there are some minor items that will increase it somewhat.

Mr. GRIGGS. Then, approximately, \$60,000 would be enough for that?

Mr. VICKERY. On that basis. But there is this to remember: The spring months—April, May, and June—are the months in which there is more driving done than any other part of the year—that is, more than in the fall; and that will increase the expenditure during that part of that year from this fund considerably, and there is, perhaps, more time lost in vacations, so that there is less of the per diem used during July, August, and September. The inspectors take their leaves of absence largely in July, August, and September.

May I make one statement on that point that a question has led up to here? The chairman suggested that I should consult with the rural people in regard to this, and since I have done so I am more than ever convinced that there is a good deal of wisdom in the suggestion. Heretofore rural agents have been required to make inspection of rural routes while riding with the carriers. When the inspector is riding with the carrier the carrier has it in his power not only to spruce up and put on a better appearance, live up to the rules, and convince the man riding with him that he is all right in every way, but also is able to steer him away from the ugly points in connection with the service. The chairman suggested that while the riding with the carrier might result in economy of expenditure for livery hire, that there were two other points in which we lost absolutely by that method.

One was the element of time, as the inspector would be able to ride over but one route a day with the carrier, when frequently by starting earlier he could handle two routes a day; and while we would pay more for livery, still we would save in the item of salary. The other was that the inspector would frequently find the absolute conditions along the route, and get complaints, and the chance to rectify the service, which might not be secured or called to his attention if he were riding with the carrier.

The CHAIRMAN. Is it not true that oftentimes the inspector arrives at a place after the carrier has gone, and is obliged to lay over until the next day?

Mr. VICKERY. Yes; and practically lose a day frequently under those circumstances. All our estimates have heretofore been made on the theory that the service should be conducted in that way, and Mr. Spilman now urges that the usual inspection ought to be with the carrier. He insists that there are certain points that the carriers do

not cover because of lack of knowledge, and that the inspector riding with him will be able to straighten those things out; but it does seem to me that with the experience the rural inspector has he ought to be able to gain the information without having to drive all day with the carrier.

Mr. FINLEY. Would it not be difficult to investigate the carrier when the inspector is riding with him?

Mr. VICKERY. I think so.

Mr. FINLEY. It would be practically impossible; I know of an instance where it has been found to be impossible.

Mr. VICKERY. Any patron on the route who has a complaint to make against the carrier is slow to make it if the carrier is right with the inspector.

The CHAIRMAN. Then you think it would be economy to increase the appropriation for livery hire, and that you would be enabled to make better time in the inspection if that was the case?

Mr. VICKERY. I do; most assuredly.

Mr. FINLEY. And a more efficient inspection.

Mr. VICKERY. A more efficient one.

Mr. LLOYD. Isn't it true that the carrier frequently is not prepared with a suitable conveyance to carry the inspector, especially when there are bad roads?

Mr. VICKERY. That is often true; and there has been a kind of elastic provision in the old organization by which in such cases livery might be hired and the carrier ride with the inspector instead of the inspector with the carrier.

The CHAIRMAN. Have you any estimates as to what additional appropriation would be necessary to cover that?

Mr. VICKERY. I have been unable to make that; and the fact that the estimates have gone in without that being in mind I have not been able to get anything to go on.

The CHAIRMAN. Do you suppose that the Fourth Assistant would have sufficient data to make an estimate upon that?

Mr. VICKERY. I doubt that very much.

The CHAIRMAN. How is it to be arrived at then?

Mr. VICKERY. I would suggest that it can not be arrived at now, and the only thing is a little increase that will allow us to make the experiment.

Mr. FINLEY. If you should calculate the number of inspections of rural routes made during the year, that would afford you a basis for an estimate, would it not?

Mr. VICKERY. Yes; but some of those have been made with livery heretofore, because where they reorganize county service they drive with livery.

Mr. STAFFORD. Reverting to the question of economy in the service as the result of the merger of the inspection division with the rural division headquarters, I would like to ask whether there have been any economies in the service by reason of such merger, and direct your attention to your suggestion of last year that if these division headquarters were merged it would permit perhaps the assignment of drafting work in one central office.

Mr. VICKERY. That drafting work now is all taken from the division headquarters and handled by the Fourth Assistant as part of the office work; and the maps are all made, as they should be, here in

Washington instead of being scattered around through the different division headquarters.

Mr. SNAPP. Have any vacancies occurred in this inspection force since the 1st of July?

Mr. VICKERY. Yes, sir.

Mr. SNAPP. Can you tell the committee in what grades they have occurred, what the causes have been, and the number in each grade?

Mr. VICKERY. I am not prepared to do that. I can gather it up. There have been several removals—some in the higher grades—and there have been a number of resignations.

Mr. SNAPP. Mr. Chairman, I would like to have him furnish to the committee, so that it can go into the record, a table showing the vacancies that have occurred in each grade of the inspection service and the cause, whether by removal or resignation, and also in what way each vacancy has been filled, if at all.

Mr. VICKERY. You do not want the names?

Mr. SNAPP. No, not the names.

The CHAIRMAN. That is for the last six months?

Mr. SNAPP. For the current year.

The CHAIRMAN. You can furnish it by letter so that it can be inserted in the record.

POST-OFFICE DEPARTMENT,
OFFICE OF CHIEF INSPECTOR,
Washington, January 10, 1907.

SIR: Complying with request made on the 8th instant at the hearings before your committee. I inclose sheet showing the separations from the corps of post-office inspectors since the beginning of the current fiscal year and the manner of separation.

Very respectfully,

W. J. VICKERY,
Chief Inspector.

Hon. JESSE OVERSTREET.

*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

Separations from the corps of post-office inspectors since July 1, 1906.

Grade.	Number in current ap- propria- tion.	Vacancies occurring since July 1, 1906.			
		Resigna- tion.	Removal.	Death.	Total.
\$3,000.....	15	0	0	0	0
\$2,400.....	10	0	0	0	0
\$2,250.....	15	1	0	0	1
\$2,000.....	15	1	0	0	1
\$1,800.....	10	2	0	0	2
\$1,600.....	130	5	2	1	8
\$1,400.....	110	6	0	1	7
\$1,200.....	72	6	0	2	8
Total.....		21	2	4	27

Of the 21 resignations noted, eight (4 at \$1,400 and 4 at \$1,200) were on account of such irregularities of inefficiency as to render separation from the service desirable, but not sufficient to demand absolute removal.

There are now pending the cases of three inspectors (2 at \$1,600 and 1 at \$1,400) in which removal is under consideration.

Vacancies above the grade of \$1,200 have been filled by promotion as they have occurred, and since July 1, 1906, 23 appointments have been made in the \$1,200 grade.

Some of these separations have been of quite recent date, but appointments to fill the vacancies will be made within a few days, appointees having been selected.

Mr. SNAPP. In filling those vacancies, has it been customary always to promote one from the next lowest grade?

Mr. VICKERY. Yes.

Mr. SNAPP. In doing that do you take into account at all the length of service of the man promoted in the lower grade?

Mr. VICKERY. Yes; we take into account the length of service and efficiency both. A man who has been a long time in the service who is not efficient is frequently passed over for a man who has been a shorter time and has been more efficient in the service.

Mr. SNAPP. Will you not also, in the table, indicate the length of service of the different inspectors in the \$1,200 grade?

Mr. VICKERY. Yes, sir.

The CHAIRMAN. Those who are there now, and how long they have been there.

Mr. SNAPP. Yes; those who are there now, how long they have been there, by number and not by name.

Mr. VICKERY. That would be different for each individual.

The CHAIRMAN. That would simply be an examination of the dates of the original appointment of the men who are now in that grade.

Mr. VICKERY. Certainly.

Mr. SNAPP. Is it customary to always promote a man from a lower grade in case of a vacancy in a higher grade?

Mr. VICKERY. I think I should say so without exception.

Mr. SNAPP. Even though the inspector may be doing the same work in both grades?

Mr. VICKERY. Although they do the same work in both grades. We promote from the entrance at \$1,200, and invariably the higher grades are filled by promotions.

Mr. SNAPP. So that the principle followed by the department is of keeping their higher grades filled from the lower grades, regardless of the fact that the service they perform may be the same, and regardless also of the length of service of the men in the lower grades. Is that true?

Mr. VICKERY. Well, not entirely regardless, Mr. Snapp. The idea is this, that a man longer in the service, if he is fit for the service at all, becomes more efficient, and therefore deserves promotion.

Mr. SNAPP. What I mean is this, that you do not take into consideration the length of a man's service so much as his efficiency in the service?

Mr. VICKERY. Well, it is hard to explain; there is an equation. For instance, when a promotion is to be made, we go down the seniority list, and the chance is that we may pass over two or three poorer men at the top and take a man who is more efficient four or five numbers down. It may be that the man is not one of the very best men, but counting time, length of service, and efficiency altogether, he seems to be more desirable than a man who has been in the service a shorter time, but perhaps is doing slightly better work. We try to make a comparative rating in that way.

Mr. SNAPP. In making out this table, Mr. Vickery, will you not please indicate from what lower grade, and to what higher grade, each promotion is made; in other words, you say that sometimes you skip a grade or two.

Mr. VICKERY. Not a grade or two, but a name or two. We do not skip grades.

Mr. SNAPP. I misunderstood you.

Now, why does not the Department, in the interest of economy, keep some of these vacancies open in the higher grades where men are doing the same work in the lower grades; and why should they always treat the vacancy as a reason for promotion?

Mr. VICKERY. For this reason: If we keep the lower grades filled, and keep open vacancies at the top, we could never get the right kind of recruits for the service. The only hope of promotion comes from reaching these higher grades eventually; that is the great inducement to do the work properly. My own impression is, as compared with other branches of the postal service, that our grade of inspectors with per diem is not well enough paid to make our people stay with us rather than go to other branches of the postal service; to illustrate, for instance, one of our rural superintendents who was with us last year, and was given an \$1,800 place, found a \$2,000 place at \$4 per diem in another branch of the service; and I know all the way down to the \$1,200 grade, if the men were to feel that they were to stay there indefinitely, we would not get them. It is hard enough now to get competent men to fill the places.

Mr. SNAPP. Your citation of that case simply indicates to my mind that there should be some harmony in the different branches of the Post-Office Department.

Mr. VICKERY. There is no lack of harmony; the gentleman in this case was worth the higher salary absolutely, and he should have it, and I feel that with the inspectors we should have at least the higher grades filled instead of keeping vacancies there.

Mr. SNAPP. I did not understand what part of this \$5,000 increase in the appropriation for compensation to clerks and laborers at division headquarters is for increased force and what part is for promotion. Will you not indicate that, if you have not done so already?

Mr. VICKERY. I don't know that I can state that absolutely.

Mr. SNAPP. Is it all intended for increase of force, or is part of it for promotion or increase of salary?

Mr. VICKERY. The present roster, to keep the force just exactly as it is, without a single promotion of any kind, will cost \$96,620 an increase of \$1,620 over the present appropriation.

Mr. SNAPP. In what way did you increase that \$1,620?

Mr. VICKERY. That is the annual rate. We had vacancies last summer, and we have had a number of resignations, and we have had trouble in filling vacancies because the Civil Service Commission could not fill them.

Mr. SPERRY. Are those resignations on account of the salary?

Mr. VICKERY. Some will resign on account of better opportunities outside, but I have not exactly the number, though several have gone for that reason. We can not keep them in the lower grades.

Mr. SPERRY. When you lose a good man, whether on account of the salary or otherwise, you consider it a great loss to the Department and to the public, do you not?

Mr. VICKERY. I rather think so.

Mr. SPERRY. You rather think so; you know so, don't you?

Mr. VICKERY. I feel so; yes, sir. We should have experienced clerks.

Mr. SNAPP. Why do you ask for an increase of \$5,000 in that item; what do you need it for?

Mr. VICKERY. Part will be needed on account of the normal growth of the service; and if the clerks that we now have are to stay, we should have some little provision made for promotions.

Mr. SNAPP. What do you calculate on in the way of increase of force, or increase in salary, or what you call promotions? I would like to have you segregate that and tell us what it is, what your plans are.

The CHAIRMAN. Let me interrupt you at that point to call attention to a letter of yours, Mr. Vickery, in answer to an inquiry from my office in November last, in which you gave the grades and number proposed in this increase, and to ask if there is any modification from the situation as given on that date. At that time you suggested 15 in the \$1,600 grade, 16 in the \$1,400 grade, 30 in the \$1,200 grade, 16 in the \$1,000 grade, and 2 in the \$660 grade, the latter being laborers, I take it. That would make a total clerical force, with the 2 laborers, of 79, and aggregating an annual pay roll of \$99,720.

Mr. VICKERY. That is exactly what would be satisfactory.

The CHAIRMAN. Now, in regard to the inquiry of Mr. Snapp again. How do these segregations of the five different classifications differ from the existing law? That would show what are for promotions and what for increases.

Mr. VICKERY. From the existing arrangement—I think that letter of mine will probably answer the question propounded by Mr. Snapp.

Mr. SNAPP. I should judge from this table that this makes an increase of one in the force, and the balance of the amount is for promotion?

Mr. VICKERY. Yes.

Mr. SNAPP. That is just what I wanted to find out.

The CHAIRMAN. This may be put in the record at this point. It is addressed to the clerk of the committee, who wrote the letter at my request. It is a letter in answer to an inquiry directed by me to be made of Mr. Vickery as to whether or not it would not be better to segregate the various clerks by salaries at the division headquarters than to make a lump-sum appropriation, and his reply gives the segregation as approximately the same as his recommendation of \$100,000 for that force. If the segregation should be made in accordance with the existing conditions, then it would be in accordance with the table which I inserted in the record a while ago, based upon the \$95,000 lump-sum appropriation.

Following is the letter referred to:

POST-OFFICE DEPARTMENT.

OFFICE OF CHIEF INSPECTOR,

Washington, November 13, 1906.

MY DEAR WILLIAMS: Referring to yours of the 6th instant, I have to say that the clerks in the field are 78 in number, and are classified as follows:

Grade.	Number.	Total.	Grade.	Number.	Total.
\$1,600	15	\$24,000	\$900	5	\$4,500
\$1,400	9	12,600	\$660	2	1,320
\$1,200	26	31,200			
\$1,100	8	8,800	Total	78	95,420
\$1,000	13	13,000			

You will notice an excess of \$420 over the \$95,000 appropriated for the current fiscal year. This becomes possible by the holding open for some time of one or two vacancies. As you are aware, the map-making force has been gradually turned over to the Fourth Assistant Postmaster-General.

While the list as given is merely as the force happens to stand, and there has been no thought of permanent segregation, it is, it seems to me, reasonably close to a proper arrangement. If I had my way about it, and the force was to be permanently segregated, I should suggest the following:

Grade.	Number.	Total.	Grade.	Number.	Total.
\$1,600.....	15	\$24,000	\$660.....	2	\$1,320
1,400.....	16	22,400			
1,200.....	30	36,000	Total.....	79	99,720
1,000.....	16	16,000			

This would eliminate entirely the \$1,100 and \$900 grades, would increase the present number of clerks by one, and would bring the total, \$99,720, within the \$100,000 as asked for by the Postmaster-General.

It is next to impossible to get efficient clerks for our work at \$900 per annum, and I am satisfied that better salaries would get a better grade of clerks, would hold them longer working hours, and would get better results with fewer employees.

Hoping to see you soon, I am,
Yours, very truly,

W. J. VICKERY,
Chief Inspector.

MR. E. L. WILLIAMS.

Clerk Committee on the Post-Office and Post-Roads, Indianapolis, Ind.

MR. STAFFORD. In your recommendation as to the number in each class, if a segregation should take place, you would increase several classes materially over the number now in the service. You do that following the suggestion you made heretofore that it would be necessary in case of segregation to have a surplus number to meet conditions.

MR. VICKERY. That, Mr. Stafford, is reduced to the very lowest number that can possibly do the work. There are 79 employees now, and you would have to add some to that to give any latitude.

MR. STAFFORD. Then you would employ only one additional clerk in the service by reason of this increased appropriation asked for?

MR. VICKERY. Really none in addition to what we have now, because in the last half of the year we have been compelled to take on an additional clerk to do the work, and by reason of the fact that having a lump sum we have money saved from vacancies that have occurred to pay the additional man needed until the end of the year.

MR. STAFFORD. Can you give any reason why you ask for the promotion of seven men into the \$1,400 grade?

MR. VICKERY. It is simply to give them the proper pay in accordance with the grade of work they are doing.

MR. STAFFORD. Does that same reason obtain throughout as to the other promotions in the \$1,200 grade, and also the \$1,000 grade?

MR. VICKERY. In the \$1,200 grade it is practically the same, merging \$1,100 people with the \$1,200 people.

MR. STAFFORD. What offices were discontinued by reason of the merger of the two services—the rural service with the inspection force?

MR. VICKERY. There were six division superintendents.

MR. STAFFORD. At what places were the offices discontinued?

MR. VICKERY. At Indianapolis, Chicago, St. Louis, Omaha, Washington, and Nashville.

Mr. STAFFORD. In all of those cities save Omaha and Nashville there had been a division for the inspection service?

Mr. VICKERY. No; from Indianapolis the division headquarters went to Cincinnati, and at St. Louis, Chicago, and Washington there were former division headquarters. There was a merger at some places.

Mr. STAFFORD. The \$660 grade is for the laborers, I suppose.

Mr. VICKERY. Two laborers at different division headquarters.

Mr. STAFFORD. All the others are clerks?

Mr. VICKERY. Yes.

The CHAIRMAN. The livery-hire pay is met, is it not, from the \$70,000 appropriation for traveling expenses?

Mr. VICKERY. Yes.

The CHAIRMAN. Can you tell the committee what amount was expended for livery hire from that appropriation?

Mr. VICKERY. I think possibly I can for a part of the year. The livery hire from July to October 31—the entire livery of the force—was \$13,263.

The CHAIRMAN. Would that be higher or lower than the average per quarter for an entire year—that was more than a quarter, however, was it not?

Mr. VICKERY. That was four months.

The CHAIRMAN. Then, would that be an average for the entire period of three months?

Mr. VICKERY. I suspect that four months would possibly, on the livery proposition, be nearly an average, because the winter months would probably be a little less, while the spring months are a little more.

The CHAIRMAN. Then the total amount of livery hire for the year would be approximately three times that, or about \$40,000?

Mr. VICKERY. About that, under the present method. Possibly, however, the estimate would be a little too low. Practically all the inspectors take their annual furlough of twenty days each during July, August, and September, and this would of course reduce all expenditure during that time.

The CHAIRMAN. If the item for livery hire should be segregated and the amount for that service taken from this item of appropriation under the plan suggested a while ago for the larger use of the livery by the inspectors, what amount would you recommend for that particular service for the next fiscal year?

Mr. VICKERY. Well, I should think that if the rural people used that for all of their inspections—that is, where they are at liberty to use it—it ought to double the present amount for livery hire.

The CHAIRMAN. Then it ought to be \$80,000.

Mr. VICKERY. \$75,000, possibly. That is all, of course, more or less problematical.

The CHAIRMAN. Is the annual rate of expenditure for the other purposes mentioned in this particular item—namely, the traveling expenses of inspectors without per diem, and of inspectors-in-charge, other than livery, for purposes of this inspection of rural routes—more than \$30,000; or is all of this \$70,000 intended for livery hire in the inspection of these routes? The present appropriation is \$70,000 for traveling expenses of inspectors without per diem and of inspectors-in-charge, expenses incurred by inspectors not covered by

per diem allowance, and traveling expenses of the chief post-office inspector. If you use \$40,000 for the livery hire, it leaves \$30,000 for the other purposes. Is that all consumed for the other purposes?

MR. VICKERY. No; I do not think it is, all of it.

The CHAIRMAN. Supposing the committee should make this particular item \$20,000, and add the words "other than livery hire." and then make a separate item of \$60,000 for livery hire. In your judgment would that be a better provision for the expense? That would give you \$20,000 for the traveling expenses of inspectors without per diem, and of inspectors in charge, expenses incurred by inspectors not covered by per diem allowance, and traveling expenses of the chief post-office inspector, other than livery hire, and \$60,000 for livery hire, and it would result in a net increase of \$10,000.

MR. VICKERY. That would be an increase in livery hire of 50 per cent over the estimated amount to be expended during the current year. I suspect that might work out all right. I imagine possibly \$25,000 for the other expenses might be a little safer.

The CHAIRMAN. What are those other expenses?

MR. VICKERY. All of the expenses outside of per diem.

The CHAIRMAN. What expenses can there be outside of per diem?

MR. VICKERY. Telegrams, telephone messages, other incidentals, and mainly traveling expenses of city inspectors, who do not have per diem when detailed on special work away from their domiciles, as they are frequently when an important investigation is under way. All the living expenses and sleeping-car expenses of those men are included in this other item. While \$20,000 may be enough, I think \$25,000 would be safer.

The CHAIRMAN. Can you furnish the committee within a few days the information as to what amount was actually spent of this sum for livery hire, and what amount for other than livery hire?

MR. VICKERY. I think likely I can. Of course we have not been able to wind up the first six months, but in a few days we ought to be able to approximate it.

The CHAIRMAN. You can for the first quarter?

MR. VICKERY. Oh, yes.

The CHAIRMAN. The first quarter would give the relative proportion. I suggest you advise the committee by letter relative to the expenditures for the first quarter of the fiscal year, separating the livery hire account from the other, and stating in your letter the general character of those other expenses.

POST-OFFICE DEPARTMENT.

OFFICE OF CHIEF INSPECTOR.

Washington, January 10, 1907.

SIR: Complying with request made on the 8th instant at the hearings before your committee, I have to say that the expenditures for livery from the appropriation for post-office inspectors for the five months of the current fiscal year ended November 30 were \$16,799.67. During the same period the expenditures for other items, telegrams and telephone service in the field, street-car fare, maintenance and Pullman fares of inspectors without per diem, etc., were \$4,119.61. The expenditures during these months were necessarily much lighter from the fact that during July, August, and September practically all the leaves of absence of inspectors are taken, and a smaller number of inspectors are on duty then than at any other time in the year.

It is also a fact that, as a rule, there is less of important work on hand during July and August, and there is no such necessity for travel expenses of inspectors who have no per diem. The expenditures for the month of December can not be determined yet, as only 152 accounts have been passed

upon, the total number of inspectors appropriated for being 377. The expenditures other than for livery allowed these 152 inspectors for the month of December were \$943.76. It is likely that, the total expenditures, excluding livery, for the month of December will amount to \$1,500, and that the important investigations now pending or in progress the next few months will show a material increase in the expenditures over those for the first five months of the current fiscal year.

The main items of expenditures chargeable to the \$70,000 appropriation outside of livery hire are for telegrams and telephone service in the field, temporary maintenance of prisoners whom inspectors are compelled to take into custody, car fares paid for such prisoners, stationery and stamps used in sending test letters to secure evidence against dishonest employees, expense of securing transcripts of papers used in trial of postal offenders, and the personal maintenance, including Pullman fares of inspectors in charge and inspectors without per diem, and travelling expenses of the chief inspector.

Very respectfully,

W. J. VICKERY, *Chief Inspector.*

HON. JESSE OVERSTREET,

*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

MR. SNAPP. In your letter of November 13, to Mr. Williams, the clerk of this committee, giving the number and salaries of this force of clerks you recommend segregated, you used this language:

This would eliminate entirely the \$1.100 and \$900 grades, would increase the present number of clerks by one, and would bring the total, \$99,720, within the \$100,000 as asked for by the Postmaster-General. It is next to impossible to get efficient clerks for our work at \$900 per annum, and I am satisfied that better salaries would get a better grade of clerks, would hold them longer working hours, and would get better results with fewer employees.

Now, if that is the case, why did you ask for 79 clerks, the present force being 78, if you thought, as you said here, that this change would get better results with fewer employees?

MR. VICKERY. Fewer, comparatively, Mr. Snapp, only; not fewer than the present number. Right now we have 79 at work, but we had a larger number than that when the force was merged. Rather than have the increase in number in proportion to the increase of the work, if we had the force organized on that basis we would have, I am satisfied, the kind of men who would go back at night if necessary and would by greater energy and efficiency keep up the work.

MR. SNAPP. Then you really did not mean what your language would indicate?

MR. VICKERY. I did not mean any reduction of the present number.

MR. SNAPP. You mean that the percentage of increase from year to year hereafter would be small?

MR. VICKERY. I mean we would not ask any increase—there would be a less number comparatively than the growth of the service would warrant asking for.

MR. SNAPP. You say here: "Would hold them longer working hours." What are the working hours at the present time?

MR. VICKERY. At division headquarters clerks as a rule begin work at 8 o'clock in the morning and quit at 5 o'clock in the afternoon.

MR. SNAPP. It is the policy of this Department, as well as the others of the Government, to recognize an eight-hour day, is it not?

MR. VICKERY. It is the policy.

MR. SNAPP. Now, then, do you mean by this that, if these increases of salaries are allowed, those clerks would be expected or required to work longer than eight hours?

Mr. VICKERY. My idea was to show that they need not in that way be required to do so, but that they would volunteer the extra service.

Mr. SNAPP. Having been in this service as long as you have, have you any reason to believe that the employees of the Government in this service would voluntarily work longer than eight hours?

Mr. VICKERY. I, of course, speak only from personal experience. At the Cincinnati division headquarters, where I was in charge for a long time, the clerks used to go to the office frequently after supper to bring up their work.

Mr. SNAPP. Just for the good of the Government?

Mr. VICKERY. I don't suppose it should be put on that patriotic motive, but they were interested in the work, and they kept it up.

Mr. STAFFORD. How many of these clerks received promotions at the beginning of the fiscal year?

Mr. VICKERY. None.

Mr. STAFFORD. They all receive the same salaries that they were receiving last year?

Mr. VICKERY. Several promotions have been made since the beginning of the year. I don't think we made a promotion of any clerk in our service until after the 1st of October. At the beginning of the fiscal year we had the problem of reducing to fit the new appropriation of \$95,000 to the work that had been costing \$109,000 before.

Mr. STAFFORD. Reducing salaries, or discharging or reducing the number?

Mr. VICKERY. Not discharging. There were two, I think, dropped. Others were gradually transferred to places in the Department; taken off of this field roll as vacancies occurred in the Department.

Mr. STAFFORD. There have been no increases of salary in those two divisions for clerical service during the past year, save as you have mentioned?

Mr. VICKERY. We did make, after the 1st of October, some promotions, but none on the 1st of July.

Mr. STAFFORD. How many did you make at that time?

Mr. VICKERY. I don't remember, but I could find out from the records.

Mr. STAFFORD. In what grades, do you know?

Mr. VICKERY. All the grades all the way through.

The CHAIRMAN. Were those promotions made entirely coincident with the creation of the vacancies in the grades above, or were employees already in the service given additional increases of salary?

Mr. VICKERY. Employees already in the service in some cases were given higher salaries. In other words, last year, as I remember, we did not have at all of the division headquarters uniform chief clerks' salaries. There were perhaps eight or ten of the divisions that had \$1,600 for the chief clerk, while others had less. Now they are all receiving \$1,600 uniformly in the different divisions.

Mr. SNAPP. Do you pursue that rule regardless of the efficiency of the different men, comparing one with another?

Mr. VICKERY. No, sir; we try to have efficient men in every place of that kind. A man can not be a satisfactory chief clerk without quite a degree of efficiency.

Mr. SNAPP. So that when they reach these grades by natural promotion, whenever vacancies occur, they eventually reach the efficiency that justifies the salary; that is it, is it not?

Mr. VICKERY. We have some men in that service who have been, for I don't know how many years, at \$1,000, and have not been promoted at all and probably will not be because they are not efficient enough to warrant going to the higher grades.

Mr. SNAPP. Do you ever discharge anyone for that cause?

Mr. VICKERY. We have discharged some, yes.

Mr. SNAPP. In the higher grades?

Mr. VICKERY. A few; yes, sir.

Mr. SNAPP. Now, when you submit this other information will you not also indicate, if you can, the number of separations from the service that have been made by the Department in these upper grades for inefficiency?

Mr. VICKERY. Yes, sir.

Mr. FINLEY. Do you regard the number of inspectors in the service now as being entirely sufficient to give the Department efficient service?

Mr. VICKERY. The rural inspectors have not as yet had time to show how much work they are going to do. I have not asked for any additional this time, and have asked for no changes because you trusted me last year to put this consolidation into effect, and we ought to have a year's time to work it out.

Mr. FINLEY. You contemplate that as a rural inspector's term lengthens in this new service that his efficiency will increase?

Mr. VICKERY. I have no doubt of that. I tried to set forth in my report what I expect in that line. Under conditions where, heretofore, they have had idle time they can do work on other lines, but it takes six months' education to fit them for the new duties.

Mr. FINLEY. I observe from page 7 of your report that the field collections for the years 1905 and 1906 are very much greater than they were the two preceding years. How do you account for that?

Mr. VICKERY. That is largely because of the inspections of the post-offices being more thoroughly attended to. The attempt has been made to have annual inspections, and last year about two-thirds of the money-order offices were inspected. Some remote offices have not been reached annually, and are found slow in making remittances. Collections have been growing because the territory has been better covered. There has been an increase, too, because more collections have been made from the sureties of dishonest employees on account of thefts from the mails.

Mr. FINLEY. The small offices remote from railroads should be inspected at least once a year, should they not, in order to get good service?

Mr. VICKERY. They should be.

Mr. LLOYD. What do you mean, Mr. Vickery, by "official domicile?"

Mr. VICKERY. The official domicile is a center of the territory assigned to an inspector, at which point he is expected to do what might be called his office work without having a per diem allowance. It is made, in a measure, his home.

Mr. LLOYD. What is the necessity, since everything is under the inspection service, of having an official domicile?

Mr. VICKERY. They have had them right along. That provision was in the bill before the rural service was merged.

MR. LLOYD. Do you require that an inspector shall not live and do work in the State in which his home is located?

MR. VICKERY. For three years past, or more, the inspectors as appointed have been invariably assigned to divisions other than the ones in which they reside.

MR. LLOYD. What is the necessity of requiring a rural inspector to do business in a State other than his own?

MR. VICKERY. There is no absolute necessity in either case. The plan was adopted, as I say, by General Bristow, I don't know how many years ago, on the theory that a man appointed in the inspection service would be freer from local influences by being assigned to work away from his home district.

MR. LLOYD. That would be all right, would it not, so far as the district is concerned, but what is the necessity for taking him out of his State?

MR. VICKERY. The same theory prevails. I suppose that State influences would affect the inspector possibly in smaller degree as would those of his Congressional district.

MR. LLOYD. What I am trying to get at is the necessity for the use of the official domicile as requiring the inspector to do business in the State other than his own. My own conviction is that that is an absolute hardship, and ought not to be required, and I would like to know whether you think so or not.

MR. VICKERY. My own recollection is that that came into the bill without the request of the Post-Office Department.

MR. LLOYD. I have heard that too.

MR. VICKERY. And I shall have no objections if that shall be stricken from the bill.

MR. LLOYD. If the words "official domicile" were stricken out, you would not object?

MR. VICKERY. I do not see, from the Department's standpoint, any objection. It will make more per diem expenditure, that is all.

MR. STAFFORD. If you will pardon an interruption there, when that phraseology was added to the bill as to per diem allowance, we found that inspectors were assigned to certain designated domiciles which were really their homes, and they were drawing the \$4 per diem when they were not entitled to it under the intention of the law, and therefore we restricted it in that particular.

MR. VICKERY. That has been my understanding of the case.

MR. STAFFORD. That an inspector should not be entitled to this \$4 per diem allowance while he was working at his official domicile where he was located for any length of time, or his home, or headquarters.

MR. VICKERY. In other words, that the per diem should be allowed for travel only?

MR. STAFFORD. It had been shown that there had been abuse on the part of the inspectors, and we sought to check the abuse.

MR. LLOYD. Do you know of any abuse now?

MR. VICKERY. I don't think any abuse could exist now, because we have the provision to assign him to a domicile.

MR. LLOYD. Do you think that if the words, "official domicile" were removed any injury would result to the service?

MR. VICKERY. I don't know what abuse these gentlemen intended; I was not here at that time.

Mr. LLOYD. You said it worked a hardship to the inspectors?

Mr. STAFFORD. I would like to say, so as to have the record correct, that the limitation that we placed in here was solely for the purpose of preventing the allowances of per diem to inspectors, under certain conditions, but we had no thought, as I remember, and it was not brought to the attention of the committee, of restricting the field operations of any inspector.

Mr. SNAPP. Does the Postmaster-General still issue transportation cards to inspectors?

Mr. VICKERY. The Postmaster-General still issues inspector's commissions.

Mr. SNAPP. I have understood you to say that occasionally wives of inspectors travel with them on the routes.

The CHAIRMAN. I do not think he meant traveled on the route, but traveled with him when he went into another State.

Mr. SNAPP. Do you know, as the head of this department, whether the inspectors are able to obtain railway transportation for their wives or families?

Mr. VICKERY. I know that they are not. There may be exceptions, Mr. Snapp, but I know that as a general rule there is not anything of that kind.

The CHAIRMAN. That there may be exceptions where the Department itself may issue transportation?

Mr. VICKERY. The Department does not touch any transportation at all. They may, perhaps, through some friends upon the railroad, be able to get their transportation, but they do not through the Department.

Mr. SNAPP. What would you say as to the rule? Are they or are they not able to obtain transportation for their families?

Mr. VICKERY. I should say not.

Mr. LLOYD. Under the present law they can not.

The CHAIRMAN. I do not think they can.

Mr. LLOYD. They are not required to do it, but they may do it under the law.

POST-OFFICE DEPARTMENT,
OFFICE OF CHIEF INSPECTOR,
Washington, January 11, 1907.

SIR: Complying with request of the 8th instant at the hearings before your committee, I have the honor to state that of the 44 inspectors who have been in the \$1,200 grade longer than six months 1 has been in the grade over five years, 2 over four years and under five, 4 over three years and under four, 21 over two years and under three, 6 over one year and under two, and 10 over six months and under one year.

All of those who have been in the service in this grade for less than three years were appointed from other branches of the postal service, and even of those less than six months in this service there are none who have not had as much as two or three years' experience in other branches of the postal service before appointment as inspectors.

Very respectfully,

W. J. VICKERY,
Chief Inspector.

Hon. JESSE OVERSTREET,
Chairman Committee on the Post-Office and Post-Roads, House of Representatives.

OFFICE OF THE ASSISTANT ATTORNEY-GENERAL
FOR THE POST-OFFICE DEPARTMENT,
Washington, January 21, 1907.

MY DEAR SIR: There has just been received by telephone from the House of Representatives a message asking that a letter be submitted to the Committee on the Post-Office and Post-Roads, explaining the item of \$10,000 for printing and binding of opinions of Assistant Attorneys-General for the Post-Office Department as contained in the estimates upon which appropriations for the postal service for the fiscal year 1908 are to be based.

The act making appropriations for the service of the Post-Office Department for the year ended June 30, 1904, embraced an item appropriating \$5,000 for "printing and binding the opinions of the Assistant Attorney-General for the Post-Office Department." Of that appropriation \$4,208.75 was expended in printing and binding two volumes, covering opinions of this office from the date of its establishment, namely, June 23, 1873, to March 7, 1892, both inclusive. To complete the work of compiling, printing, and binding these opinions, there remains to be covered the period from March 7, 1892, to the present time, being nearly fifteen years; and it is believed that if performed with the same economy which characterized the previous work, this can be accomplished at an expenditure of about \$10,000, including the preparation and printing of a suitable digest. When this work was undertaken it was anticipated that further provision would be made by Congress for its completion, as it was never contemplated that \$5,000 would be nearly sufficient for that purpose. The two volumes now in print are of great value, but it is the more recent opinions which must be referred to most frequently, and these are strewn through one hundred or more press-copy books, and must be searched out page by page when it is necessary to refer to them.

Of each of the two volumes now in print, 100 copies were made, of which 60 copies were bound in sheep and 40 in paper. It was estimated to be impossible to print a larger number of these volumes with the appropriation available, but, as is seen, \$791.25 of the total of \$5,000 provided was unused, and this sum lapsed on June 30, 1905, and was covered into the General Treasury. The greatest economy was exercised in carrying on this work, in order to accomplish as large results as possible with the funds provided. It is estimated, however, that \$10,000 additional will be necessary to complete the work of printing and binding the opinions in question, including a satisfactory digest of them.

The high importance and increasing necessity of finishing this work have been dwelt upon in each of the annual reports of this Office for a number of years, and it is unnecessary now to dwell upon them at length. The usefulness of the work is attested by the numerous requests received for the two volumes in print from officers throughout the postal service as well as from Senators and Representatives in Congress. With the exception of copies supplied to the library of the Supreme Court of the United States, the library of the Department of Justice, the Auditor for the Post-Office Department, and the Philippine postal service, the distribution of the 100 copies of each of the volumes now in print has been limited to the bureaus of the Post-Office Department and to those officers of the postal service having greatest need for them.

Even under this arrangement the edition of each volume is nearly exhausted, but electrotypes of their contents have been made, and of course additional copies can be printed whenever funds for that purpose are provided by Congress. The work of compiling these opinions, including the preparation of syllabi and indexes and of reading and correcting the printed proofs, was performed exclusively by this office. That it required much time and the exercise of great care needs hardly to be said.

I am sending you to-day a copy of each of the two volumes of the opinions of this office which are now in print.

Very truly, yours,

R. P. GOODWIN.

Hon. JESSE OVERSTREET, M. C.

Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.

**STATEMENT OF HON. FRANK H. HITCHCOCK, FIRST ASSISTANT
POSTMASTER-GENERAL.**

COMPENSATION TO POSTMASTERS.

The CHAIRMAN. Mr. Hitchcock, the first item of appropriation under your authority is the compensation of postmasters. I observe you ask for an increase of a million and a half dollars, or 6.25 per cent. How do you reach that item of increase, and how many offices have advanced or do you estimate will advance during the period which will require that amount of increase?

Mr. HITCHCOCK. This appropriation is for salaries of postmasters at all Presidential offices and does not depend entirely upon the number of offices advancing from one class to another. It depends even more largely upon the growth of the business at offices that do not advance from class to class.

The CHAIRMAN. That is quite true.

Mr. HITCHCOCK. It is the enormous growth of such business and the consequent increase in expenditures that have necessitated this large increase in our estimate, an increase of \$1,500,000.

The CHAIRMAN. In my inquiry, if I may restate it, I desired to ascertain whether you merely made a recommendation for an arbitrary per cent of increase, the same per cent that you made last year, or whether you made new calculations.

Mr. HITCHCOCK. Our estimate for this year is based upon the increase in receipts as compared with the increase of the year before.

The estimated receipts for 1906 were \$166,581,000, but the actual receipts proved to be \$167,933,000. According to the receipts of 50 large offices for which we have since obtained statistics this rate of growth is being maintained, and on that fact we base our estimate.

The CHAIRMAN. This payment to our postmasters is based upon the statute.

Mr. HITCHCOCK. It is a matter regulated by law.

CHAPTER 142.—An act to adjust the salaries of postmasters.

Be it enacted, etc., That the respective compensation of postmasters of the first, second, and third classes shall be annual salaries, assigned in even hundreds of dollars and payable in quarterly payments, to be ascertained and fixed by the Postmaster-General from their respective quarterly returns to the Auditor of the Treasury for the Post-Office Department, or copies or duplicates thereof, to be forwarded to the First Assistant Postmaster-General, for four quarters immediately preceding the adjustment, at the following rates, namely:

FIRST CLASS.

Gross receipts, forty thousand dollars, and not exceeding forty-five thousand dollars; salary, three thousand dollars.

Gross receipts, forty-five thousand dollars, and not exceeding sixty thousand dollars; salary, three thousand one hundred dollars.

Gross receipts, sixty thousand dollars, and not exceeding eighty thousand dollars; salary, three thousand two hundred dollars.

Gross receipts, eighty thousand dollars, and not exceeding one hundred and ten thousand dollars; salary, three thousand three hundred dollars.

Gross receipts, one hundred and ten thousand dollars, and not exceeding one hundred and fifty thousand dollars; salary, three thousand four hundred dollars.

Gross receipts, one hundred and fifty thousand dollars, and not exceeding two hundred thousand dollars; salary, three thousand five hundred dollars.

Gross receipts, two hundred thousand dollars, and not exceeding two hundred and sixty thousand dollars; salary, three thousand six hundred dollars.

Gross receipts, two hundred and sixty thousand dollars, and not exceeding three hundred and thirty thousand dollars; salary, three thousand seven hundred dollars.

Gross receipts, three hundred and thirty thousand dollars, and not exceeding four hundred thousand dollars; salary, three thousand eight hundred dollars.

Gross receipts, four hundred thousand dollars, and not exceeding four hundred and fifty thousand dollars; salary, three thousand nine hundred dollars.

Gross receipts, four hundred and fifty thousand dollars, and not exceeding five hundred thousand dollars; salary, four thousand dollars.

Gross receipts, five hundred thousand dollars, and not exceeding six hundred thousand dollars; salary, five thousand dollars.

Gross receipts, six hundred thousand dollars and upwards; salary, six thousand dollars.

SECOND CLASS.

Gross receipts, eight thousand dollars, and not exceeding nine thousand dollars; salary, two thousand dollars.

Gross receipts, nine thousand dollars, and not exceeding ten thousand dollars; salary, two thousand one hundred dollars.

Gross receipts, ten thousand dollars, and not exceeding eleven thousand dollars; salary, two thousand two hundred dollars.

Gross receipts, eleven thousand dollars, and not exceeding thirteen thousand dollars; salary, two thousand three hundred dollars.

Gross receipts, thirteen thousand dollars, and not exceeding sixteen thousand dollars; salary, two thousand four hundred dollars.

Gross receipts, sixteen thousand dollars, and not exceeding twenty thousand dollars; salary, two thousand five hundred dollars.

Gross receipts, twenty thousand dollars, and not exceeding twenty-four thousand dollars; salary, two thousand six hundred dollars.

Gross receipts, twenty-four thousand dollars, and not exceeding thirty thousand dollars; salary, two thousand seven hundred dollars.

Gross receipts, thirty thousand dollars, and not exceeding thirty-five thousand dollars; salary, two thousand eight hundred dollars.

Gross receipts, thirty-five thousand dollars, and not exceeding forty thousand dollars; salary, two thousand nine hundred dollars.

THIRD CLASS.

Gross receipts, one thousand nine hundred dollars, and not exceeding two thousand one hundred dollars; salary, one thousand dollars.

Gross receipts, two thousand one hundred dollars, and not exceeding two thousand four hundred dollars; salary, one thousand one hundred dollars.

Gross receipts, two thousand four hundred dollars, and not exceeding two thousand seven hundred dollars; salary, one thousand two hundred dollars.

Gross receipts, two thousand seven hundred dollars, and not exceeding three thousand dollars; salary, one thousand three hundred dollars.

Gross receipts, three thousand dollars, and not exceeding three thousand five hundred dollars; salary, one thousand four hundred dollars.

Gross receipts, three thousand five hundred dollars, and not exceeding four thousand two hundred dollars; salary, one thousand five hundred dollars.

Gross receipts, four thousand two hundred dollars, and not exceeding five thousand dollars; salary, one thousand six hundred dollars.

Gross receipts, five thousand dollars, and not exceeding six thousand dollars; salary, one thousand seven hundred dollars.

Gross receipts, six thousand dollars, and not exceeding seven thousand dollars; salary, one thousand eight hundred dollars.

Gross receipts, seven thousand dollars, and not exceeding eight thousand dollars; salary, one thousand nine hundred dollars.

And in order to ascertain the amount of the postal receipts of each office, the Postmaster-General may require postmasters to furnish the Department with certified copies of their quarterly returns to the Auditor at such times and for such periods as he may deem necessary in each case.

FOURTH CLASS.

Sec. 2. That the compensation of postmasters of the fourth class shall be fixed upon the basis of the whole of the box-rents collected at their offices and commissions upon the amount of canceled postage-due stamps (provided for in section two hundred and seventy of the Revised Laws and Regulations, edition of eighteen hundred and seventy-nine), and on postage stamps, official stamps, stamped envelopes, postal cards, and newspaper and periodical stamps canceled, on matter actually mailed at their offices, and on amounts received from waste paper, dead newspapers, printed matter, and twine sold, at the following rates, namely :

On the first fifty dollars or less per quarter, one hundred per centum; on the next one hundred dollars or less per quarter, sixty per centum; on the next two hundred dollars or less per quarter, fifty per centum; and on all the balance, forty per centum, the same to be ascertained and allowed by the Auditor of the Treasury for the Post-Office Department in the settlement of the accounts of such postmasters upon their sworn quarterly returns :

Provided, That when the compensation of any postmaster of this class shall reach two hundred and fifty dollars for four consecutive quarters each, exclusive of commissions on money-order business, and when the returns to the Auditor for four consecutive quarters shall allow him to be entitled to a compensation in excess of two hundred and fifty dollars per quarter, the Auditor shall report such fact to the Postmaster-General, who shall assign the office to its proper class, and fix the salary of the postmaster as provided by section one of this act :

Provided further, That in no case shall there be allowed to any postmaster of this class a compensation greater than two hundred and fifty dollars in any one of the first three quarters of any fiscal year, exclusive of money-order commissions, and in the last quarter of each fiscal year there shall be allowed such further sum as he may be entitled to under the provisions of this act, not exceeding for the whole fiscal year the sum of one thousand dollars, exclusive of money-order commissions.

Sec. 3. That the Postmaster-General shall make all orders relative to the salaries of postmasters; and any change made in such salaries shall not take effect until the first day of the quarter next following the order; and the Auditor shall be notified of any and all changes of salaries.

Sec. 4. That the salaries of postmasters of the first, second, and third classes shall be readjusted by the Postmaster-General, the first adjustment (under this act) to take effect simultaneously with the (1) reduction of the rates of postage and thereafter at the beginning of each fiscal year;

And the salary of the postmaster at Washington City, District of Columbia, shall be five thousand dollars;

And in no case shall the salary of any postmaster exceed the sum of six thousand dollars, except in the city of New York, where the salary of the postmaster shall remain, as now fixed by law, at eight thousand dollars per annum. (March 3, 1883.)

NOTE.—(1) Rate of postage on first-class matter reduced, to take effect October 1, 1883, by 1883, March 3, ch. 92 (22 Stat. L., 455), omitted from this volume because superseded by the further reduction of 1895, March 3, ch. 342, par. 4, post., p. 483.

The CHAIRMAN. And you have made this calculation according to the best methods of computation?

Mr. HITCHCOCK. It is the result of our calculation.

PAYMENT TO POSTMASTERS ON CALENDAR INSTEAD OF FISCAL YEAR.

The CHAIRMAN. I think it might be well for you at this point to make whatever statement you desire relative to your recommendations contained in your report for a change of method of payment to postmasters to conform with the calendar rather than the fiscal year.

Mr. HITCHCOCK. I have given the reasons on pages 7 and 8 of my report.

The CHAIRMAN. Just briefly, for purposes of record, not elaborately, give us the reasons as you have them in the report. And I would ask, Mr. Hitchcock, is it for the convenience of bookkeeping or a benefit which you think the postmasters are entitled to?

Mr. HITCHCOCK. It is for the convenience of bookkeeping and of administration.

The CHAIRMAN. Wouldn't there be some embarrassment in having a part of the administration of the office conform to the calendar year and other parts conform to the fiscal year?

Mr. HITCHCOCK. The estimates for postmasters' salaries do not conform to the fiscal year at present, Mr. Chairman.

The CHAIRMAN. They conform to quarters?

Mr. HITCHCOCK. They relate to the year ending the 31st of March.

The CHAIRMAN. That is, any increase of compensation to a postmaster is based upon computation of the receipts of his office for a full year of twelve months ending on March 31?

Mr. HITCHCOCK. Yes.

The CHAIRMAN. And your recommendation is to make that terminus December 31?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. What change, if any, would that make in the amount by reason of the postmaster getting the benefit of the quarter ending December 31, which was a heavy quarter?

Mr. HITCHCOCK. It would make some little change at the outset, but after the plan was in operation the method of advancement would not be affected in any way by the change.

The CHAIRMAN. If this year there should be any change of law conforming with your recommendation of the time of payment, would it necessitate any change of the amount of appropriation estimated?

Mr. HITCHCOCK. No; we don't think it would necessitate any change in the amount.

Mr. STAFFORD. Why would it be easier administration to have the year as a basis end on the calendar year rather than on the 31st of March?

Mr. HITCHCOCK. Because it will give more time to do the necessary computing.

Mr. STAFFORD. Why is more time necessary when the salary goes on nevertheless from April 1, as based upon the showing made in the prior year?

Mr. SNAPP. The increases begin to take effect on the 1st of July.

Mr. HITCHCOCK. The increase in salary takes effect on the 1st of July.

Mr. SNAPP. This would give them six months instead of three to bring about the change.

Mr. STAFFORD. I understood you to say, in reply to an inquiry from the chairman, that it dated immediately from the 1st of April.

The CHAIRMAN. If you make the proposed change, will the compensation be based upon the business of the calendar year ending December 31, and when would the increase of salary, where one was found necessary, begin?

Mr. HITCHCOCK. It would begin, as at present, on the 1st of July.

The CHAIRMAN. Then you would make your computation or adjustment of salary of the postmaster upon the basis of the year ending December 31, and his salary would then begin with the increase the 1st of the following July?

Mr. HITCHCOCK. Yes, sir; the period during which the salary would run at the increased rate would be the same. We merely use a different period for the purpose of calculating the salary.

The CHAIRMAN. Can you quote to the committee the existing law that governs this particular method of adjustment? I think you do not give the language of the law in your report at all.

Mr. HITCHCOCK. In my report I simply give the sense of the law.

The CHAIRMAN. Will you be kind enough to address a letter to us quoting the existing law governing this adjustment, and your recommendation of the language of an amendment which would meet your recommendation.

Mr. HITCHCOCK. We prepared last year an amendment to cover this recommendation, and submitted it to you, Mr. Chairman, toward the close of the session. It was some little time after the hearings, but we thought that there might be an opportunity for you to bring it up before the session ended.

The CHAIRMAN. Possibly we may have it here.

Mr. FINLEY. Mr. Hitchcock, I would like to ask you, with reference to the salary of fourth-class postmasters, is the present method of compensation the best one, in your judgment, which can be gotten up?

Mr. HITCHCOCK. We have not been able to devise any better method. I know that the present method has been criticised. From time to time the question has been considered by the Department with the idea of making some change, but thus far the committees to whom the subject has been referred for investigation have not succeeded in agreeing upon any better method.

Mr. FINLEY. Is it not a fact that salaries paid to fourth-class postmasters, one office as compared with another, and the work to be performed, is often unequal and the compensation not commensurate with the work done?

Mr. HITCHCOCK. That is true, because of the varying nature of the business conducted at different fourth-class offices.

Mr. FINLEY. As compared with the salaries of the other postmasters, do you think that the salaries paid to fourth-class postmasters are fair?

Mr. HITCHCOCK. I am inclined to think that, speaking generally, the salaries are pretty low as compared with the salaries paid other postmasters. There are so many peculiar conditions pertaining to fourth-class offices, however, that it is a difficult matter to work out this problem. Many fourth-class offices are conducted by men who do not consider the question of compensation as of any importance.

Mr. FINLEY. A mere matter of convenience.

Mr. HITCHCOCK. Yes, sir.

Mr. FINLEY. I am aware of that. Then you could not make any suggestion as to the best remedy for this inequality in salaries.

Mr. HITCHCOCK. I am not prepared to make any definite suggestions.

The CHAIRMAN. The letter referred to by Mr. Hitchcock addressed to me at the close of the hearings last year I have here, under date of February 12, in which you inclose a proposed amendment covering this point. I will read this for the information of the committee (reads):

POST-OFFICE DEPARTMENT,
FIRST ASSISTANT POSTMASTER-GENERAL,
Washington, February 12, 1906.

HON. JESSE OVERSTREET,

*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives, Washington, D. C.*

MY DEAR SIR: With reference to the proposed amendment of the law regulating the readjustment of postmasters' salaries and the advancement of post-offices from the fourth to the third class, as discussed at the recent hearings before your committee, I beg to transmit herewith a draft of such an amendment, the adoption of which is earnestly recommended. The form of amendment inclosed has been passed upon and approved by the Assistant Attorney-General for the Post-Office Department.

Very truly, yours,

F. H. HITCHCOCK,
First Assistant Postmaster-General.

Amendment.

Following the item in the "act making appropriation for the service of the Post-Office Department for the fiscal year ending June thirtieth, nineteen hundred and seven," providing for the compensation of postmasters, insert these provisos:

Provided, That hereafter the salaries of postmasters at post-offices of the first, second, and third classes shall be fixed by the Postmaster-General on the basis of the gross receipts of their respective offices for the four quarters of the calendar year, to take effect at the beginning of the following fiscal year, at the rates specified in the "act making appropriations for the service of the Post-Office Department for the fiscal year ending June thirtieth, eighteen hundred and seventy-seven," approved July twelfth, eighteen hundred and seventy-six, as amended by the "act to adjust the salaries of postmasters," approved March third, eighteen hundred and eighty-three: *And provided further*, That hereafter no post-office of the fourth class shall be advanced to the Presidential grade until the compensation of the postmaster for the four quarters of the fiscal year amounts to one thousand dollars, exclusive of commissions on money orders issued, and the gross receipts for the same period amount to one thousand nine hundred dollars. Whenever the compensation of any postmaster at an office of the fourth class amounts to one thousand dollars, exclusive of commissions on money orders issued, and the gross receipts to one thousand nine hundred dollars during a fiscal year, the Auditor for the Post-Office Department shall report such fact to the Postmaster-General, who shall assign the office to its proper class, to take effect at the beginning of the following calendar year, and fix the salary accordingly.

The CHAIRMAN. Do you stand by that amendment now?

Mr. HITCHCOCK. Yes, sir. That amendment is in proper form, and I will say that it was submitted to the law officers of the Department and approved by them.

CHANGE OF FOURTH-CLASS OFFICES TO THIRD CLASS.

Mr. FINLEY. Now, in reference to the amount fixed with respect to the receipts at fourth-class offices, is there any increase made in your proposed amendment of receipts required?

Mr. HITCHCOCK. No, sir.

Mr. FINLEY. That is the same as under the existing law?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. There is this change, is there not, that the fourth-class office advance is governed by a certain number of quarters aggregating \$250 to the quarter, and this modification would permit an advance earlier than the existing methods?

Mr. HITCHCOCK. Yes; but there is no change in the total amount required.

Mr. FINLEY. The total amount was what I had reference to.

Mr. STAFFORD. Do you know the reason why the law was arranged to require the allowance of \$250 to be successive for four quarters before the office would go into the third class?

Mr. HITCHCOCK. No; I have never been able to understand why that was done, because it works a great injustice.

Mr. STAFFORD. There are some fourth-class offices which have the bulk of their business during a limited period of the year. Is it not possible that those offices would have the aggregate to entitle them to the third class by reason of the business in one quarter, and that office being comparatively without business during the remaining three-quarters of the year?

Mr. HITCHCOCK. That would be a very unusual case.

Mr. STAFFORD. Wouldn't that be the case in many instances at summer resorts or where they have summer-resort business?

Mr. HITCHCOCK. Not in many instances. In fact, I don't know of any instance where that occurs.

Mr. STAFFORD. Your report cites the summer and winter resort business as being the warrant for this change. Wouldn't there likely be allowed additional clerk hire at these third-class offices where there would be no need for it during the remaining months of the year when the business would be on par with the ordinary low-grade fourth-class office?

Mr. HITCHCOCK. That would not mean that the clerks would be employed right through the year. They are not classified offices. The postmaster hires his own employees in these offices, and he provides the necessary assistance during the period when the work is heavy.

Mr. STAFFORD. But in the office specified the postmaster also would receive his return in compensation in the way of allowances under the fourth-class rule in a limited period, and it would not be stretched over the entire year, so that he would be getting his full compensation for more density of work, if I may use the term.

Mr. HITCHCOCK. He would be unable to utilize his allowances at the time when they are most needed.

Mr. STAFFORD. Don't you think it would be advisable, if we are going to consider those classes where by reason of excessive work during some period of the year, and where they approach for a number of quarters the third-class limit, to raise the total amount of \$1,900 as a basis, so as to correct the extraordinary cases where all the work might come into one quarter?

Mr. HITCHCOCK. You are assuming that there are only a few such offices, and that the conditions in them are extreme. As a matter of fact, there are many offices where the variation in the amount of business performed during the summer as compared with that in the winter, while not so very great, is nevertheless sufficient to prevent the advancement of these offices, because in the dull season the salary falls somewhat below the \$250 rate.

Mr. STAFFORD. But the total amount of sales is far in excess, when you take the entire four quarters into consideration, over the \$1,900 limit. Wouldn't it be better to raise the amount of \$1,900 in such a case if you are going to have a basis estimated on the total work in any period in the entire year? Instead of saying that the amount would be \$1,000, make it \$1,200, or \$1,500, and the total cancellations correspond accordingly.

Mr. HITCHCOCK. That would interfere with the entire scheme of salaries as it now exists.

Mr. STAFFORD. No; it would only make an exception in case of offices where the allowances as now arranged would aggregate, say, \$1,200 or \$1,500 for any time during the entire year. In those cases it should be turned into an office of the third class.

Mr. HITCHCOCK. I don't see how you are going to carry out that plan without some further provisions.

Mr. STAFFORD. As you stated, when an office is moved up to the third class, we would have the old law in force, but we would give the privilege of going into the third class to those offices where the aggregate cancellations were sufficient to indicate that their business entitled them to the third-class privilege throughout the year.

Mr. HITCHCOCK. I am afraid that I do not understand what your plan is.

Mr. STAFFORD. The matter that I suggested was called to the attention of the chief clerk last year, and as I remember it, he said that there would be no objection if we raised the limit to \$1,200 instead of \$1,000.

Mr. HITCHCOCK. Do you mean to increase the compensation of the postmasters—

Mr. STAFFORD. I only intended to increase the limit that is now required. Your amendment is \$1,000. Now, if the cancellations would aggregate, say, \$1,200, in that emergency, regardless of whether the returns were \$250 in each successive four quarters, they then should be enough to make the office a third-class office.

Mr. FINLEY. Does not your proposition involve an alternative requirement for the fourth-class office to become a third-class office?

Mr. HITCHCOCK. I understand it as such. It means that in some cases a fourth-class office would advance to the third-class when the postmaster's salary reached \$1,000, and in some cases when it reached \$1,200.

Mr. STAFFORD. There are instances at the present time where their allowances would run up to more than \$1,200, and yet they are obliged to remain in the fourth class; and we would provide for those exceptional cases which you set forth in your report as a basis for this change and not alter the present standard, which is not at fault in the majority of cases.

Mr. HITCHCOCK. But as I suggested a moment ago, you would have to distinguish between the fourth-class offices that show unusual conditions and the fourth-class offices that show normal conditions. Sometimes a fourth-class office grows rapidly throughout the year.

Mr. STAFFORD. As soon as it would be turned into the grade of third class it would of necessity be based upon sales, and would remain in the third class. My suggestion was based upon an amendment to the present law, only providing for exceptional conditions which you suggest in your report.

Mr. HEDGE. Let me make a suggestion there. Why not let the law remain as it is, with this further provision, that if in any office in the course of four quarters—carrying out your idea—the compensation of the postmaster shall amount to, say \$1,200, and his cancellations amount to \$2,000, then it should be advanced. That will keep the law as it now is.

Mr. FINLEY. That is the amendment that the Department offered.

The CHAIRMAN. I think Mr. Hedge's idea is worthy of consideration.

Mr. STAFFORD. You are carrying out my idea.

The CHAIRMAN. You are carrying out Mr. Hitchcock's idea of easy readjustment. Let the present law remain as it is and simply add the proviso that whenever a fourth-class office shall, during the four quarters of a calendar year reach the sum of \$1,000, exclusive of commissions or money orders, and shall reach the gross receipts of \$1,900, then it shall pass to the third class.

Mr. HEDGE. I mean that, with this difference, that you enlarge the sum. Some agreement may be reached here. Mr. Stafford thinks it ought to be increased to \$2,000 instead of \$1,900, and proposes \$1,200 instead of \$1,000. But my suggestion was that you might let the present law remain as it is, and then provide for these somewhat exceptional cases by some such provision as I have referred to, allowing them to come in if their year's business amounts to, say \$1,200, for the postmaster exclusive of commissions, and his cancellations amount to \$2,000. This would make it a little bit larger than the present law for those exceptional cases.

Mr. HITCHCOCK. If I understand Mr. Stafford's suggestion, it is that we provide for the advancement of an office to the third class when the salary of the postmaster reached \$1,200 regardless of the present requirement that the salary shall be equal to \$250 for each of four successive quarters. Is that it?

Mr. STAFFORD. Yes, sir. The total receipts should be enlarged over the amount named in your present amendment so as to provide for those exceptional cases.

Mr. FINLEY. How would that affect the salaries paid to those postmasters who would be brought up in that way in the interim?

Mr. STAFFORD. As soon as these offices showed that their gross receipts equaled that amount for the entire four quarters, then they would be advanced to the third class and their pay would be based upon sales of stamps instead of cancellations, and continue in that grade so long as they sold the amount of stamps necessary, as at present.

Mr. FINLEY. That would be more advantageous to the Government than the amendment offered here.

Mr. STAFFORD. Yes; and also would cure the difficulty which Mr. Hitchcock set forth in his report—of there being some offices where the amount of gross receipts are away in excess of \$1,900, but for one poor or two poor quarters they are short of the \$250 sufficient to bring them into the third class.

Mr. HITCHCOCK. It occurs to me, however, that your plan would still work an injustice to the fourth-class postmaster, because from the time when his office was entitled to \$1,000 under my amendment to the time when it would be entitled to \$1,200 under your plan he

would be receiving less salary than he is really entitled to, considering the total amount of business handled at his office.

Mr. STAFFORD. He is receiving less to-day, is he not, according to your idea of what he is entitled to?

Mr. HITCHCOCK. That is the injustice we wish to correct by this amendment.

Mr. STAFFORD. There is a difference of opinion. I claim that he is only in rare instances receiving less than he is entitled to, because he is doing the work in less time than those postmasters where the work is scattered more evenly over the four quarters.

Mr. HITCHCOCK. As a matter of fact, Mr. Stafford, it seems to me that instead of less time it really requires more time when the work is heavier at one season of the year than at another—as at summer and winter resorts—because as a rule the postmaster is not only short-handed at such periods, but he has to keep his office open longer hours. At the same time, he has to keep his office open through the entire year the number of hours prescribed by the Department.

Mr. STAFFORD. Have you received complaint from postmasters at those offices where those conditions prevail?

Mr. HITCHCOCK. We have received numerous complaints.

Mr. STAFFORD. I have in mind instances where those conditions prevail, and the postmaster is receiving his full quota and is quite satisfied that he is receiving sufficient for the work that is done.

Mr. HITCHCOCK. I am glad to hear of such a case, because there are so many other cases where the opposite condition prevails.

Mr. STAFFORD. And I can realize how there may be exceptional conditions where the cancellation may be extraordinary during the summer season, which would justify us in putting them in the third class.

Mr. HITCHCOCK. As a matter of fact, we are constantly receiving complaints from such offices, not only from the postmasters themselves, but also from the patrons of the offices, because the service is not up to the proper standard. The postmasters are not paid enough money to provide efficient service.

Mr. FINLEY. Because it is a fourth-class office you can not make proper provision for that?

Mr. HITCHCOCK. There is no way under the present law in which we can meet such conditions.

Mr. FINLEY. That is my understanding of the present law.

ASSISTANT POSTMASTERS.

The CHAIRMAN. Mr. Hitchcock, for the current fiscal year you recommended no increase of appropriation for assistant postmasters, but for the next fiscal year you recommend increases amounting to 7.12 per cent. What has given occasion to so large an increase this year, in view of no increase last year?

Mr. HITCHCOCK. The growth of the postal business—

The CHAIRMAN. You do not mean to say that the per cent of increase of postal business is 7.12 per cent higher this year than last year?

Mr. HITCHCOCK. I was speaking in general. The growth of the postal business is one of the main factors.

The CHAIRMAN. Do you not arrive at that rather from this situation: That while the law permits compensation to assistant post-

masters equal to 50 per cent of the postmaster's compensation, they do not receive it in all cases; and have you not been somewhat influenced by the desire to enlarge the number of those who may receive the full 50 per cent of the postmaster's compensation?

Mr. HITCHCOCK. That was the purpose.

The CHAIRMAN. Then it was not entirely due to the growth of the service?

Mr. HITCHCOCK. I was about to explain that there were two reasons.

The CHAIRMAN. If you have any explanation to make with reference to that estimate, you may do so at this point.

Mr. HITCHCOCK. In line with what you have just stated, I would like to mention some of the offices at which the assistant postmaster ought to receive the maximum, that is, 50 per cent of the salary of the postmaster, in order that they may have the same compensation as that received at similar offices.

Mr. SNAPP. Do you mean by that equalize the different offices?

Mr. HITCHCOCK. In order to equalize the salaries. Under the present appropriation, for example, the assistant postmaster at Columbus, Ohio, receives only \$2,500, although he is in the \$3,000 class. While assistant postmasters at offices doing a similar amount of business are receiving \$3,000, it is impossible under the appropriation for the current year to raise his salary.

The CHAIRMAN. I would suggest that members of the committee will observe on page 6 of the skeleton bill a table which has been arranged of the compensation under the current law, and the change which would be effected by the First Assistant Postmaster-General's recommendations.

Mr. SNAPP. Does that mean that the postmaster's salary at Columbus, Ohio, is \$6,000?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. Can you take that table on page 6 and indicate the offices which would be benefited by this recommendation? You have one from \$2,000 to \$2,500. What office is that?

Mr. HITCHCOCK. Seattle, Wash.; Memphis, Tenn., and Portland, Oreg.

The CHAIRMAN. From \$2,000 to \$2,500?

Mr. HITCHCOCK. And Richmond, Va., will go into the \$2,500 class.

The CHAIRMAN. That is to say, the postmaster will go into the \$5,000 class?

Mr. HITCHCOCK. Yes, sir; I am speaking of the salaries of assistant postmasters, however.

The CHAIRMAN. At the full 50 per cent. But your recommendation covers but one increase of assistant postmaster from \$2,000 to \$2,500. The law now authorizes five such salaries, and your recommendation provides for six.

Mr. HITCHCOCK. I understand that, but I overlooked one point. Two go up from the \$2,500 class.

The CHAIRMAN. Then it would reduce the number, and that would admit of three going from \$2,000 to \$2,500.

Mr. HITCHCOCK. Precisely.

The CHAIRMAN. As that would make a rather elaborate explanation, possibly it might be well for you to put that in the shape of a letter.

Mr. HITCHCOCK. I shall be glad to send you a letter in regard to that.

The CHAIRMAN. I would suggest that you furnish the committee with information concerning the offices which will be benefited by this proposed increase for the assistant postmasters.

Mr. HITCHCOCK. I have a full statement here.

POST-OFFICE DEPARTMENT.
FIRST ASSISTANT POSTMASTER-GENERAL.
Washington, January 8, 1907.

HON. JESSE OVERSTREET,

*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

MY DEAR SIR: In compliance with the request made by your committee at to-day's hearing, I beg to state that assistant postmasters at first-class offices now receiving less than the maximum compensation will be advanced under the appropriation estimated for by the Department as follows:

From \$2,500 to \$3,000, Columbus, Ohio.

From \$1,900 to \$2,000, Portland, Oreg.; Memphis, Tenn.

From \$1,800 to \$1,900, Worcester, Mass.

From \$1,600 to \$1,700, Montgomery, Ala.; Jackson, Mich.; Oklahoma, Okla.

From \$1,400 to \$1,500, National Stock Yards, Ill.; Muscogee, Ind. T.; Oswego, N. Y.; Lebanon, Pa.; Pottsville, Pa.; South Bethlehem, Pa.; Newport News, Va.; Petersburg, Va.; Norristown, Pa.

At second-class offices fifteen assistant postmasters will be advanced from \$1,200 to \$1,300 and thirty-five from \$1,100 to \$1,200.

If the receipts continue to increase at the present rate certain first-class offices will be advanced in such manner on the 1st of July next as to increase the maximum compensation of assistant postmasters as follows:

From \$2,500 to \$3,000, Providence, R. I.

From \$2,000 to \$2,500, Seattle, Wash.; Richmond, Va.

From \$1,900 to \$2,500, Memphis, Tenn.; Portland, Oreg.

From \$1,900 to \$2,000, Dallas, Tex.; Dayton, Ohio; Hartford, Conn.; Nash-ville, Tenn.

From \$1,800 to \$1,900, Worcester, Mass.

As it is impossible to predict how many offices will be advanced in grade on the 1st of July next, the exact number of positions necessary in the several grades of salaries provided for assistant postmasters can not be determined at the present time. Changes in the rate of growth sometimes upset all calculations in this respect and now and then unexpected decreases occur that necessitate a reduction of the compensation for assistant postmasters. For this reason a sufficient number of positions should be allowed in each grade to permit a ready adjustment of the salaries affected.

If the amount estimated for by the Department is appropriated, increases in the salaries of assistant postmasters will be possible, as follows:

2 promotions from	\$2,500 to \$3,000
2 promotions from	2,000 to 2,500
2 promotions from	1,900 to 2,500
5 promotions from	1,900 to 2,000
7 promotions from	1,800 to 1,900
10 promotions from	1,700 to 1,800
15 promotions from	1,600 to 1,700
15 promotions from	1,500 to 1,600
45 promotions from	1,400 to 1,500
50 promotions from	1,300 to 1,400
90 promotions from	1,200 to 1,300
130 promotions from	1,100 to 1,200
130 promotions from	1,000 to 1,100
42 promotions from	900 to 1,000
60 promotions from	800 to 900
2 promotions from	700 to 800

Very respectfully,

F. H. HITCHCOCK,
First Assistant Postmaster-General.

The CHAIRMAN. I would like to call the attention of the committee to two letters under date of December 7, 1906, one recommending an increase for the assistant postmaster at Chicago and the other for the assistant postmaster at New York City, and give Mr. Hitchcock an opportunity to explain, if he cares to, with reference to the increase in those salaries, which are now by special act \$3,500. He recommends that both be advanced to \$4,000, which is 50 per cent of the salary of the postmasters at Chicago and New York, respectively.

Mr. HITCHCOCK. I am strongly in favor of that change.

The CHAIRMAN. These letters I will read first and insert in the record for the information of the committee.

(Following are the letters referred to, which were read by the chairman:)

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., December 7, 1906.

HON. JESSE OVERSTREET,

*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

MY DEAR SIR: I have the honor to recommend that the salary of the assistant postmaster at New York, N. Y., be fixed at \$4,000 per annum in the appropriation act for the next fiscal year. The act of March 2, 1889, provides that the salary of the assistant postmaster at a first-class office shall not exceed 50 per cent of the salary of the postmaster, graded in even hundreds of dollars from \$1,500 to \$3,000 per annum, except at New York, N. Y., where the salary shall be \$3,500 per annum.

The gross receipts of the New York post-office for the last fiscal year amounted to \$16,994,452.23, the salary of the postmaster being \$8,000. There are 2,752 clerks assigned to the New York post-office and 2,083 carriers. In view of the enormous receipts and the large number of employees it is believed that a salary of \$4,000 for the position of assistant postmaster at New York should be allowed.

Respectfully,

GEO. B. CORTELYOU,
OFFICE OF THE POSTMASTER-GENERAL,
Postmaster-General.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., December 7, 1906.

HON. JESSE OVERSTREET,

*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

MY DEAR SIR: I have the honor to recommend that the salary of the assistant postmaster at Chicago, Ill., be fixed at \$4,000 per annum in the appropriation act for the next fiscal year. The act of March 2, 1889, provides that the salary of the assistant postmaster at a first-class office shall not exceed 50 per cent of the salary of the postmaster, graded in even hundreds of dollars from \$1,500 to \$3,000 per annum, except at New York, N. Y., where the salary shall be \$3,500 per annum.

The gross receipts of the Chicago post-office for the last fiscal year amounted to \$12,878,198.37, the salary of the postmaster being \$8,000. There are 2,739 clerks assigned to the Chicago office and 1,619 carriers. In view of the enormous receipts and the large number of employees it is believed that a salary of \$4,000 for the position of assistant postmaster at Chicago should be allowed.

Respectfully,

GEO. B. CORTELYOU,
Postmaster-General.

Mr. SNAPP. Your estimate for compensation to assistant postmasters at first and second class post-offices contemplates a compensation to each deputy postmaster of the largest amount permitted by law.

Mr. HITCHCOCK. Excepting in the smaller second-class offices. The Department does not allow the maximum in the smaller second-class offices. It has been the custom to allow \$700, \$800, and \$900 for the assistant postmasters in the smaller second-class offices, according to the receipts of those offices, but in the larger second-class offices, and in all first-class offices, the salaries of assistant postmasters ought to be 50 per cent of the salaries of the postmasters.

Mr. SNAPP. And you provide for that in this estimate?

Mr. HITCHCOCK. This estimate will make it possible to grant 50 per cent of the salaries of the postmasters to assistant postmasters in at least all first-class offices. I should say there are something over 100 offices representing cases similar to that I have just mentioned at Columbus, Ohio, where the assistant is receiving less than the maximum. These cases cause us considerable annoyance at the Department, because the assistants feel that they are entitled to the maximum when it is the prevailing salary in other offices of equal rank. They are constantly applying to have their salaries advanced to the usual rate. They naturally consider it an injustice when they receive less than other assistant postmasters are getting all over the country in offices of the same size.

Mr. SNAPP. In recommending this estimate, which would enable you to make promotions in salaries of certain deputy postmasters, do you take into consideration at all the efficiency of each deputy when you compare the salary of one deputy in one office with the salary of a deputy in another office?

Mr. HITCHCOCK. We don't take into consideration the efficiency of the deputy postmaster any more than we do the efficiency of the postmaster himself. The salary of the assistant is determined in the same way, theoretically, as the salary of the postmaster. We assume that if a man is competent to hold the position of assistant postmaster at any first or second class post-office, excepting the smaller second-class offices, he is entitled to receive at least 50 per cent of the amount of salary given the postmaster.

The CHAIRMAN. Then your view, if I understand you, is that the law ought to be mandatory rather than discretionary?

Mr. HITCHCOCK. I believe it would be better, Mr. Chairman, as regards the first-class offices and the larger second-class offices. There is a special reason, as you know, for following a different plan as regards the assistant postmasters in the smaller second-class offices.

The CHAIRMAN. Particularly those that have just ripened into the second class?

Mr. HITCHCOCK. Yes. As a rule, the assistants who are employed in the third-class offices receive smaller salaries than the Department under its present practice is now giving assistant postmasters in the new second-class offices. It would be a considerable increase in their compensation to give them the maximum salary as soon as their offices are advanced to the second class.

The CHAIRMAN. A clerk who is getting \$1,100 in a third-class office which ripens into a second class, might go down to \$1,000 at 50 per cent of the postmaster's salary?

Mr. HITCHCOCK. As a measure of economy, it is possible to withhold the maximum in such cases.

The CHAIRMAN. Does not the same rule apply where an office of the first class increases in receipts so as to entitle the postmaster to \$5,000,

and that possibly at the beginning his assistant would not necessarily deserve 50 per cent of that salary? Why does not the same rule apply in the higher offices immediately upon their ripening into conditions which entitle the postmaster to an increase?

Mr. HITCHCOCK. Because there is no such line of demarkation between the first-class and the second-class offices as there is between the second-class and the third-class offices.

The CHAIRMAN. Yes; I think that is true as to that degree.

Mr. HITCHCOCK. As a matter of fact, if we can increase the allowances for clerk hire in third-class offices, as I think they ought to be increased, so as to provide more efficient help in those offices, the present practice of the Department would be unwise. It is my judgment that the clerks in the third-class offices that are about to advance into the second class ought to receive better compensation. They ought to be a better type of employee.

Mr. STAFFORD. But you have no control over the character of those employees, because it is merely an allowance, and they are appointed by the postmaster regardless of the wish of the Post-Office Department; and the postmaster may use that allowance in the employment of clerks at three, four, or two hundred dollars a year and make distribution as he sees fit.

The CHAIRMAN. We might make allowances to such a postmaster of \$400, and he would not use but \$250 of it for a clerk, and he might take it and not hire anybody.

Mr. FINLEY. What would he do with the money?

The CHAIRMAN. This is a direct appropriation to the postmaster himself, and he can use it or not use it.

Mr. HITCHCOCK. Are you not under a misapprehension about that? The clerk-hire allowance must be expended and proper vouchers furnished.

Mr. STAFFORD. The allowance is made direct to the postmaster, and virtually when we make that allowance it is to increase his salary—leaving it to him, as had been the practice before in all those higher grade offices, to compensate him for the clerks he actually requires in the service. It was the original idea as to allowances for compensation to third-class postmasters, that it should be sufficient and adequate for him to pay for all the clerical work necessary in those offices.

Mr. FINLEY. But he must pay?

Mr. STAFFORD. No matter what salary or how much it may be?

Mr. HITCHCOCK. It is true that he can adjust the salaries, so long as he does not exceed the amount allowed, but he can not retain any of that allowance unless it is actually expended for the purpose intended.

The CHAIRMAN. So far as the law is concerned, I think you are mistaken and Mr. Stafford is right: so far as the regulations are concerned, I imagine you are entirely correct, Mr. Hitchcock. The language of the law is: "For allowance to third-class post-offices to cover the cost of clerical service," so much money. Now, under that you can allow these various sums indicated in the statute to the offices to cover the cost of clerical service, and the postmaster himself adjusts those among the various employees, provided that no allowance in excess of \$200 shall be made where the salary of the postmaster is \$1,000, the maximum being \$400 where the salary of the

postmaster is \$1,600. Supposing you allow under that law \$400 to a postmaster whose salary is \$1,600 or more to cover the cost of clerical service, he can hire four clerks at \$100 apiece, or one clerk at \$400.

Mr. HITCHCOCK. That is very true.

The CHAIRMAN. But so far as what the individual clerk gets the Post-Office Department has no control, therefore the increase of that amount would not answer your suggestion that you would necessarily by that increase obtain the services of a more efficient clerk. So that I think Mr. Stafford was right in his statement.

Mr. STAFFORD. Your recommendation would amount to a very radical departure from the plans of the Post-Office Department in determining the character of the clerks and providing for their pay directly. You stated a few moments ago that you desired a higher grade of efficiency in the clerks in the third-class offices. It is beyond the control of the Department, as to the efficiency of those clerks, providing the grade of work done in the office is satisfactory to the Department.

Mr. HITCHCOCK. Isn't that exactly the point? We can govern that.

Mr. STAFFORD. You have no authority under existing law to require third-class postmasters to hire a clerk at \$600, or even at \$400.

Mr. HITCHCOCK. But we have authority to require him to employ efficient help; we have authority to require him to remove from the office any inefficient employee.

Mr. STAFFORD. Do you mean to say that the Department should take upon itself the right to scrutinize the character of help, and by so doing you can get efficient help for \$200 a year in an office of the third-class?

Mr. HITCHCOCK. I believe it is not only our right, but our duty to do that, and we are constantly doing it.

Mr. STAFFORD. I would like to have you give me the number of assistant postmasters who are now in the respective grades, not those that are now appropriated for for 1908, but those actually in the service, at the respective salaries; and at as late a date as possible.

Mr. HITCHCOCK. The total number actually employed is 1,717, in the following grades:

58 in the \$700 grade.	100 in the \$1,600 grade.
60 in the \$800 grade.	55 in the \$1,700 grade.
42 in the \$900 grade.	17 in the \$1,800 grade.
250 in the \$1,000 grade.	12 in the \$1,900 grade.
340 in the \$1,100 grade.	2 in the \$2,000 grade.
350 in the \$1,200 grade.	4 in the \$2,500 grade.
210 in the \$1,300 grade.	25 in the \$3,000 grade.
100 in the \$1,400 grade.	2 in the \$3,500 grade.
90 in the \$1,500 grade.	

The last two mentioned are the assistant postmasters at New York and Chicago.

Mr. STAFFORD. Why do you recommend the discontinuance of the 58 in the \$700 grade?

Mr. HITCHCOCK. I recommend that in order to be in harmony with the new classification of employees suggested in my report.

Mr. STAFFORD. What recommendation do you specifically refer to, of providing for higher allowance of \$600 to third-class postmasters and those of the higher grades?

The CHAIRMAN. He says to be in harmony with his recommendations. I imagine what he means is that, inasmuch as he recommends a discontinuance of any class of \$700 clerks or carriers, in order to be in harmony with that method of classification he recommends a discontinuance of the \$700 classification in the assistant postmasters.

Mr. SNAPP. In what class of office are those employed?

Mr. HITCHCOCK. At the small second-class post-offices.

Mr. STAFFORD. As I read his report I thought it was due to recommendation for increased allowance in the higher third-class post-offices from \$400 to \$600, and that therefore there should be a corresponding raise to \$800 for assistant postmasters in the lowest grade.

Mr. HITCHCOCK. The reason why I made the recommendation for the omission of the \$700 grade in assistant postmasters is because, if we continue that grade under the proposed classification, we shall have assistant postmasters in certain offices drawing smaller salaries than clerks. If you will look on page 19 of my report, in the second paragraph of the bill there printed, you will find the provision covering this matter.

The CHAIRMAN. The classification recommended by you for clerks and carriers in both offices of the first and second classes would be \$600, \$800, \$900, \$1,000, \$1,100, and \$1,200.

Mr. HITCHCOCK. It would.

The CHAIRMAN. If you retain the classification of \$700 for assistant postmasters, it might frequently occur that at a place where the assistant postmaster receives but \$700 a clerk or carrier might be receiving \$800.

Mr. HITCHCOCK. That is it precisely, Mr. Chairman.

Mr. STAFFORD. The committee, when they made this new classification of seven, eight, and nine hundred dollars, wished to ease up the great difference between the allowance to postmasters of the third class when they just ripened into the second class. It was represented by the Department that it would be better to pay them a lower salary and provide more for clerk hire than to make the allowance so large for the assistant postmaster, who previously had been nothing more generally in the office than a clerk, and that where before they were receiving three or four hundred dollars, it would be too radical a jump to raise them to \$1,000, or even \$800 or \$900. You have at present 58 in the \$700 grade.

Mr. HITCHCOCK. That is correct.

Mr. STAFFORD. There is nothing to prevent your continuing the \$700 grade, providing for their promotion yearly to \$800, \$900, or \$1,000, as the office ripens into the higher class?

Mr. HITCHCOCK. These 58 would be promoted to \$800.

Mr. STAFFORD. But if we provide merely for the same number by providing for additional numbers in the \$1,000, \$1,100, and \$1,200 grades, that would provide for your promoting in salaries some of those now in the \$700 and \$800 class, where the work is becoming greater, or where their experience entitles them to a raise.

Mr. HITCHCOCK. That is all cared for in the table on page 6 of the committee's bill.

Mr. SNAPP. Then your idea in making this recommendation is practically to equalize salaries without regard to merit in each particular case.

Mr. HITCHCOCK. In each particular case as regards assistant postmasters, for the reason that an assistant postmaster is a personal appointee of the postmaster, and we hold him responsible for the appointment. In any case where the assistant is inefficient we step in and exercise our authority, requiring the postmaster to substitute an efficient man. We are doing that constantly.

Mr. SNAPP. I understood you to say a few moments ago that you kept no record of the efficiency of individual assistant postmasters.

Mr. HITCHCOCK. I was not aware that I made any statement of that kind.

Mr. SNAPP. And this recommendation was made without regard to the efficiency of each particular assistant, but was because the assistant himself and his friends placed this increased value upon his services.

Mr. HITCHCOCK. What I meant was that the method of determining the salaries of assistants is a fixed method and in itself does not depend upon individual efficiency. We require the postmaster to provide an efficient man as his assistant. We get at it in that way. If inefficiency is disclosed, we require a change.

Mr. SNAPP. I may be mistaken and change my opinion when I read your language later on, but I received the impression that the reason for your recommendation of this equalization of salaries was largely because the assistant postmasters in certain offices and their friends were making such a clamor that the Department was inclined to yield to it without regard to efficiency or inquiring into the efficiency of the individual assistant postmaster.

Mr. HITCHCOCK. I don't think I gave that as the reason for the recommendation. I merely mentioned it as a disadvantage of the present system, and it is a decided disadvantage. It takes a good deal of time and costs a good deal of money to answer the numerous inquiries in reference to inequalities in the salaries of assistant postmasters.

Mr. SNAPP. In recommending the equalization of salaries of assistant postmasters, say, at two offices, has the Department entered into an inquiry as to the amount of work and the value of the services of those two assistants, comparing one with another, before making recommendations?

Mr. HITCHCOCK. We never make an increase in the salary of an assistant postmaster until the question has been submitted to the postmaster and his recommendation has been received by the Department. We require the postmaster to state whether or not, in his judgment, the assistant is a competent man and worthy of promotion.

Mr. SNAPP. He will always, will he not, state that the assistant postmaster is entitled to the same salary as the assistant postmaster in another office where the postmaster is receiving the salary that he is?

Mr. HITCHCOCK. He will if he considers him a competent man and wishes to retain him.

The CHAIRMAN. What have you to say about the proposed increase in salaries of assistant postmasters at New York and Chicago?

Mr. HITCHCOCK. Do you mean as to the advisability of carrying out that recommendation?

The CHAIRMAN. Yes. What reason have you to state other than the mere fact that the postmasters of those two cities receive \$8,000?

Mr. HITCHCOCK. Well, it seems to me that if the position of postmaster at a city like New York or Chicago warrants a salary of \$8,000—and I believe that it does—the position of assistant postmaster at such an office certainly warrants a salary of \$4,000. The assistants are, in a sense, the general managers of these great post-offices. In both instances they are men who have come up through the service and have held their present positions for many years. They are exceedingly valuable to the service because of their long experience.

Mr. STAFFORD. You approve of the policy of having these lower classes below the \$1,000 grade of those third-class offices that just ripen into the second class, and not paying them the full 50 per cent of the salary of the postmaster in those respective cases.

Mr. HITCHCOCK. I do under the present plan. But, as I attempted to say a few moments ago, I believe that more liberal allowances should be made to postmasters in the larger third-class offices for the employment of clerical assistants. I believe that if they were granted larger allowances, they would employ better help and pay better salaries.

Mr. STAFFORD. Do you consider in that regard whether the postmaster pays any of his salary for clerical service, or should have it purely for salary purposes, and provide for his clerical help by an allowance from the Government?

Mr. HITCHCOCK. I think it would be preferable to grant postmasters such allowances as would make it possible for them to provide clerical assistance out of the allowances.

Mr. STAFFORD. Should the postmaster provide anything out of his present salary for clerical services in third-class offices?

Mr. HITCHCOCK. They are obliged to do so almost universally.

Mr. STAFFORD. Wasn't it originally intended when that scale was arranged that all expense for clerical service in third-class offices should be met out of the allowances, and the scale was arranged correspondingly at a higher rate to provide for those clerical allowances?

Mr. HITCHCOCK. I am not aware what the original purpose was in establishing those allowances, but I assume that such was the case.

Mr. SNAPP. To what time do you refer, Mr. Stafford?

Mr. STAFFORD. When the scale was originally formed.

Mr. SNAPP. When was that?

Mr. STAFFORD. That was back many years. I am referring to the time when the scale was originally put in force as to the salary for third-class postmasters.

Mr. SNAPP. Originally no allowance was made to any postmaster for clerk hire. They all received a commission, out of which they were compelled to run their entire office.

Mr. STAFFORD. But the commission was with the idea that they should pay all the expenses in the form of clerical hire out of their allowances, and it was raised necessarily to a higher limit than what it would have been if the Government were to pay directly for the clerical expense.

Mr. SNAPP. I do not think so.

Mr. HITCHCOCK. As a matter of fact, the allowances for clerk hire have not been large enough to make that possible.

The CHAIRMAN. I would suggest that inquiries relative to allow-

ances for clerk hire in third-class offices be suspended until we reach that item in the bill.

Mr. STAFFORD. I would like to have an answer to my original question, which led up to this inquiry, as to whether Mr. Hitchcock approves of these lower classes of assistant postmasters below the grade of \$1,000.

Mr. HITCHCOCK. I think they are entirely proper under present conditions, for the reason explained by the chairman some time ago.

Mr. FINLEY. What amount of money will be necessary to give all assistant postmasters 50 per cent of the postmaster's salary in second-class offices?

Mr. HITCHCOCK. That will require a computation, and I have not the data with me.

Mr. FINLEY. I would like to have it for the first-class offices separately, if it is no trouble.

The CHAIRMAN. I would suggest that you address a letter giving the answer for first-class offices and also for second-class offices.

Mr. HITCHCOCK. As I understand it, you want to know the total amount that will be necessary to compensate all the assistant postmasters at the maximum in the second-class as well as the first-class offices?

The CHAIRMAN. Yes; separating the total of the first from the second class.

Adjourned at 1.30 p. m.

POST-OFFICE DEPARTMENT,
FIRST ASSISTANT POSTMASTER-GENERAL,
Washington, January 8, 1907.

HON. JESSE OVERSTREET,
*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

MY DEAR SIR: Complying with the request made by your committee at to-day's hearings, I transmit herewith a statement showing the amounts necessary to provide for assistant postmasters at offices of the first and second classes, respectively, compensation equal to 50 per cent of the postmaster's salaries, or as nearly 50 per cent as practicable while grading the compensation of assistant postmasters in even hundreds of dollars. The statement submitted shows the number of assistant postmasters in the several grades and the amount necessary in each grade to give the maximum compensation. The total appropriation necessary for first-class offices would be \$553,500, or an increase of \$15,000 over the amount now allowed. For second-class offices an appropriation of \$1,618,500 would be required, or \$35,100 over the amount now allowed. The necessary increase over the present appropriation would be \$49,000.

Very truly, yours,

F. H. HITCHCOCK,
First Assistant Postmaster-General.

Number of assistant postmasters in the several grades at first and second class offices and amounts necessary to compensate them at the maximum rates.

AT FIRST-CLASS OFFICES.

99 at \$1,500	\$148,500
97 at \$1,600	155,200
58 at \$1,700	98,600
16 at \$1,800	28,800
11 at \$1,900	20,900
4 at \$2,000	8,000
3 at \$2,500	7,500
26 at \$3,000	78,000
2 at \$4,000	8,000
316	553,500
Amount now allowed	537,900
Increase over amount allowed	\$15,600

AT SECOND-CLASS OFFICES.

354 at \$1,000	\$354,000
354 at \$1,100	389,400
376 at \$1,200	451,200
227 at \$1,300	295,100
92 at \$1,400	128,800
1,403	1,618,500
Amount now allowed	1,583,400
Increase over amount allowed	\$35,100
Total increase over amount allowed	50,700
Total of maximum salaries	2,172,000
Present appropriation	2,123,000
Increase over present appropriation	49,000

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
Wednesday, January 9, 1907.

Committee called to order at 10.45 a. m.

STATEMENT OF HON. FRANK H. HITCHCOCK, FIRST ASSISTANT
POSTMASTER-GENERAL—Continued.

RECLASSIFICATION OF CLERKS.

The CHAIRMAN (Mr. Overstreet). You have made recommendation, Mr. Hitchcock, for reclassification of clerks and carriers at first and second class offices which, if adopted, would materially change both the character of the organization, as well as the amount of pay. Can you give the committee in round numbers the amount that would be estimated by your Bureau for compensation to clerks at first and second class post-offices if your regular recommendation should not be followed? In other words, have you made an estimate based exclusively on existing law in addition to your estimate which is based upon your recommendation for reclassification?

Mr. HITCHCOCK. The estimate I submitted of an increase of \$3,000,000 would apply in either case, Mr. Chairman.

The CHAIRMAN. That is to say, it would require the amount estimated for the fiscal year 1908, namely, \$25,700,000, even if the present method of reclassification were retained.

Mr. HITCHCOCK. I submit this recommendation for an increase of \$3,000,000 regardless of what action you may take on the proposed bill.

The CHAIRMAN. That is as to the classification.

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. What proportion of this increase of \$3,000,000 is due exclusively to increased force on account of increased business and exclusive of increased salaries?

Mr. HITCHCOCK. Approximately \$1,000,000.

The CHAIRMAN. And \$2,000,000, then, would be applicable to the increased salaries?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. What have you to say with reference to the designation of officials above the compensation of \$1,200, which, I take it, you considered in your reclassification? You seem to drop a number of designated positions.

Mr. HITCHCOCK. We have omitted a number of designations that seem to be unnecessary, and have also excluded from the grades above \$1,200 the designation "clerk," reserving that designation for the grades from \$600 to \$1,200, inclusive, the same grades that carry the designation "carrier." The main purpose of dropping the designation "clerk" in the grades above \$1,200 was to assist in placing the clerks and the carriers on precisely the same basis in the proposed bill.

The CHAIRMAN. In other words, then, your suggestion embodied in your recommendation of proposed reclassification of these clerks is to have all employees receiving a compensation of \$1,200 and less designated as "clerks," at classes represented by compensation of \$600, \$800, \$900, \$1,000, \$1,100, and \$1,200; and then have all positions where the compensation exceeds \$1,200 a year a regularly designated position, and as limited in number as the character of employment will require.

Mr. HITCHCOCK. That is exactly the plan.

The CHAIRMAN. And the dropping of certain designations contemplates, does it, the merging of employees of similar salary to one or more designations?

Mr. HITCHCOCK. Yes, sir; the purpose is to cut out unnecessary designations.

The CHAIRMAN. Does your recommendation for the reclassification, including the recommendation for increases of salaries, contemplate increases of salaries for these designated places where the compensation is in excess of \$1,200, and, if so, to what extent?

Mr. HITCHCOCK. The increase of \$3,000,000, as we have apportioned it, would provide for the promotion of 357 such employees—that is, employees in the grades above \$1,200, the grades ranging from \$1,300 to \$3,200.

The CHAIRMAN. Can you indicate to the committee just those positions?

Mr. HITCHCOCK. The amount required would be \$39,200.

The CHAIRMAN. And those increases would apply to what designations, as represented by the salaries?

Mr. HITCHCOCK. I have a tabular statement here showing precisely what increases would be made in the grades from \$1,300 to \$3,200.

The CHAIRMAN. Please state them.

Mr. HITCHCOCK. Beginning with the highest grade of \$3,200, there would be no change in that. There are at present eight positions in that grade.

The CHAIRMAN. The first change is in the \$2,600 class, is it not?

Mr. HITCHCOCK. The first change going downward from the \$3,200 class would be in the \$2,700 class. There would be six increases.

The CHAIRMAN. Would those six increases be in the \$2,600 and \$2,700 grades?

Mr. HITCHCOCK. Yes, sir. From \$2,600 to \$2,700.

Mr. SNAPP. That increases the \$2,700 class by six?

The CHAIRMAN. Yes, sir; but the six would be of the class now in the \$2,600 grade. They would be promoted to the \$2,700 class.

Mr. HITCHCOCK. Yes, sir. But there would be a decrease of two in the \$2,600 class.

The CHAIRMAN. That is to say, then, there would be four increases from the \$2,600—

Mr. HITCHCOCK. There would be six moved up from the \$2,600 grade to the \$2,700 grade, and there would be four moved up from the \$2,500 grade to the \$2,600.

Mr. STAFFORD. By moving up four and providing in the law still for six, as at present, it would give you an opportunity to promote four men from the class below to the \$2,500 class, would it not?

The CHAIRMAN. If you will pardon me, I think I can shorten this inquiry and save time.

Mr. HITCHCOCK. I can submit this table giving the information in detail.

The CHAIRMAN. I would suggest, for the purposes of the record, that you file that table, and then we could make whatever calculations upon that as may be desired, or any inquiries of Mr. Hitchcock.

Mr. SNAPP. For purposes of this hearing and further examination we ought to have that information.

The CHAIRMAN. Yes; and I request Mr. Hitchcock to hand the reporter a copy of that table for purposes of the record.

Table showing the increases proposed in the grades from \$1,300 to \$3,200.

Grades.	Present number.	Proposed number.	Increase (+) or decrease (-).	Promotions possible.
\$3,200	8	8		
\$3,000	2	2		
\$2,700	17	23	+ 6	6 from \$2,600 to \$2,700
\$2,600	21	19	- 2	4 from \$2,500 to \$2,600
\$2,500	6	6		4 from \$2,400 to \$2,500
\$2,400	26	36	+ 10	14 from \$2,200 to \$2,400 ^a
\$2,200	29	23	- 6	8 from \$2,100 to \$2,200
\$2,100	16	21	+ 5	18 from \$2,000 to \$2,100
\$2,000	77	85	+ 8	21 from \$1,800 to \$2,000 ^a
\$1,800	60	60		21 from \$1,700 to \$1,800
\$1,700	118	118		21 from \$1,600 to \$1,700
\$1,600	105	105		21 from \$1,500 to \$1,600
\$1,500	122	122		21 from \$1,400 to \$1,500
\$1,400	369	369		21 from \$1,300 to \$1,400
\$1,300	445	606	+161	182 from \$1,200 to \$1,300
Total	1,421	1,608	+182	357

^a Promotions of \$200 each.

357 promotions (322 at \$100 each, and 35 at \$200 each) × \$39,200.

Mr. HITCHCOCK. I would like to say by way of explanation that the increases are largely in the positions of superintendents.

The CHAIRMAN. That is what I would like to have you explain—where these fall.

Mr. HITCHCOCK. The table shows precisely in what grades they fall, and I will explain what positions are chiefly affected.

The CHAIRMAN. Just proceed to explain the character of these promotions—where they fall, what class of employees, and why you think they ought to be promoted.

Mr. HITCHCOCK. Most of these promotions increase the compensation of superintendents who are not now receiving the maximum salary provided by law. It is not our purpose to advance them to the maximum in one jump, but to move them up gradually from year to year, making promotions at the rate of \$100 each until all these superintendents are receiving the salaries intended by the law. The purpose is to equalize salaries.

Mr. SNAPP. I don't understand what you mean by the "salaries intended by the law." What law do you refer to?

Mr. HITCHCOCK. The classification act. That act provides that the maximum salary of superintendents of delivery and of mails shall be 45 per cent of the postmaster's salary. It provides that the maximum salary of superintendents of money-order divisions shall be 40 per cent, and that salaries of superintendents of registry shall be 35 per cent of the salaries of the postmasters.

Mr. STAFFORD. You mean not to exceed those percentages?

Mr. HITCHCOCK. In many offices the maximum is already paid, but in other offices the salaries are considerably below the maximum. In such cases they have the same reason for complaint, it seems to me, as assistant postmasters in the larger offices who are receiving less than the general run of such officers in offices of equal size. The purpose is to equalize the salaries of the superintendents in the same way that we wish to equalize the salaries of assistant postmasters.

Mr. SNAPP. Is it the purpose of the Department making this recommendation to equalize the salaries and gradually increase them all to the maximum allowed by law?

Mr. HITCHCOCK. It is the desire of the Department to do that very thing as regards these positions. We believe that the maximum salaries prescribed are not any too much for these positions. We think it wise to move up the superintendents that are receiving less to the maximum compensation. We do not ask for an appropriation that will enable us to do it in one year, but we do feel that these men should be gradually promoted.

Mr. SNAPP. Are all the estimates from your Department based upon that theory?

Mr. HITCHCOCK. Evidently you have not read my report or you would not ask such a question as that.

Mr. SNAPP. I have read it, but it is not in this record.

Mr. HITCHCOCK. Will you be good enough to explain just what you mean by your question? I don't think I understand what you mean by the word "theory."

Mr. SNAPP. Are all estimates made by your Department based upon the theories you have expressed, that these employees should be advanced to the maximum salary allowed by law?

Mr. HITCHCOCK. So far as the estimates of my Department relate

to the salaries of superintendents they are based upon the theory that in no case is the maximum allowed by law under present conditions too large a salary. We feel that the wise thing to do is to move up gradually to the maximum these officers who are receiving less than the majority of officers with equal responsibility. We do not think it would be fair to disregard these superintendents who appear to have been discriminated against in the past merely because the appropriations were not large enough to place all such officers on an equal footing as regards compensation.

MR. SNAPP. I know you make that explanation in your recommendation in the report. What I was trying to get at was so that the record shall show whether the estimates from your Department are so made as to carry out the plans outlined in your report; and knowing that, of course it would save us some trouble in making inquiries as to each separate item.

MR. HITCHCOCK. The estimate has been made for the specific purpose of covering my plan of promotions, and I am prepared to state in detail exactly how we expect to allot that appropriation if it is granted by Congress.

MR. SNAPP. Would your estimate for the grades of clerks at first and second class post-offices, if allowed, carry into effect the change of law that you recommend?

MR. HITCHCOCK. It would not carry into effect the change of law.

MR. SNAPP. So far as salaries are concerned.

MR. HITCHCOCK. The appropriations would harmonize with all the proposed changes in the law.

MR. SNAPP. So far as salaries are concerned, would they effect the same purpose as the change of law which you recommend?

MR. HITCHCOCK. They would not effect the same purpose by any means.

MR. SNAPP. Would they for the next fiscal year?

MR. HITCHCOCK. They would as regards the salaries of the next fiscal year, but that is only one of the purposes of the proposed legislation.

MR. SNAPP. Well, I think I understand that.

MR. HITCHCOCK. The main purpose of that legislation is to place on the statute books a definite plan of promotion that will serve as an inducement to men who are considering employment in the postal service, so that such men will have some assurance when they enter the lowest grade that it will be possible for them to be promoted after a given period of satisfactory service.

THE CHAIRMAN. If I understand your report, Mr. Hitchcock, in connection with the regular estimates from your bureau, you mean this—and if I am in error I will be glad to have you correct me—you first recommend a classification of clerks coincident with a similar classification of carriers for the purpose of arriving at a definite and effective standard method of advancement, which contemplates certain stimulus to employees to conduct themselves properly and render efficient service, as a basis for promotion, and which in its operation will more nearly equalize the conduct of the service; and consequently an advance of salaries in order, as your report indicates, to enable the Government to retain the services of efficient employees. But—and this is the point that I want to know if I understand you clearly upon—if your recommendation relative to

reclassification for purposes which I have briefly indicated should not prevail, that still the estimates for the amount for clerk hire in first and second class offices is the same in dollars and cents as to the amount of the estimate which you recommend regarding this reclassification?

Mr. HITCHCOCK. It is precisely the same.

The CHAIRMAN. So that you have a two-fold recommendation, one for increases of salaries of employees where they are on the present basis of classification, and the other a new and, to your mind, a better basis as represented by your classification?

Mr. HITCHCOCK. You have expressed my purpose, Mr. Chairman, in better words than I could. That is precisely the object I had in view.

The CHAIRMAN. I wanted to ascertain whether that was really the construction of your recommendation.

Mr. HITCHCOCK. It is.

Mr. SNAPP. Is that the only estimate you prepared for the committee?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. I think you misunderstand Mr. Snapp. If your answer to his question is correct, then your answer to mine is incorrect.

Mr. HITCHCOCK. It is the only estimate.

Mr. SNAPP. The one based upon the change of law and grading of clerks.

Mr. HITCHCOCK. There is but one estimate. It is possible I misunderstood the chairman. The estimate submitted is the only estimate we would recommend, whether or not the proposed classification law is enacted.

The CHAIRMAN. The recommendation is a recommendation as to a change of law relative to classification. The estimate is the dollars and cents amount; so that your dollars and cents amount, or the estimate, would be the same whether you retained the existing method of classification or the one you recommend.

Mr. HITCHCOCK. Precisely.

Mr. SNAPP. What I was trying to get at was something different. As I understood, the only estimate that you have made for an appropriation covering these clerks in first and second class offices is one based upon the assumption of the adoption of this change of law that you recommend. Is that so?

Mr. HITCHCOCK. The estimate has been framed in such manner as to be applicable to the changes provided for by the proposed legislation; but if the proposed legislation should not be enacted, the estimate in its present form would still represent the wishes of the Department as regards the increased appropriation; in other words, we could administer that appropriation as estimated for, whether or not the proposed bill is enacted.

Mr. SNAPP. Is there anything in the record or in the estimate to inform the committee what the necessary appropriation would be if present salaries in the grades above \$1,200 should be adhered to for the next fiscal year?

Mr. HITCHCOCK. I can put something in the record in a moment that will show that.

Mr. SNAPP. Then it is not in the record now?

Mr. HITCHCOCK. The proposed allotment for use in making pro-

motions in the grades above \$1,200 amounts to \$39,200, a comparatively small sum.

Mr. SNAPP. But does it appear in all the grades?

Mr. HITCHCOCK. It appears in the table I have just handed to the reporter. That table shows the grades that would be affected. The grades are also shown on page 15 of the committee's bill.

The CHAIRMAN. If you will pardon an interruption here, I would say that if I understand Mr. Hitchcock, the proposed increases embodied in the \$3,000,000, or \$39,200, is for grades above the present grade of \$1,200. Mr. Snapp's question was, if I understood him correctly, and I think I did: What is your estimate for the necessary sum of money to pay the various employees now in the service at the grades above \$1,200 and any additional number of such employees which may be necessary and entirely on account of the increased volume of service? Have you such an estimate as that?

Mr. HITCHCOCK. It is simply a question of deducting \$39,200 from the present total, as far as the present employees are concerned.

The CHAIRMAN. From the present total of the amounts above the \$1,200 grade?

Mr. HITCHCOCK. This increase of \$39,200 relates only to those positions.

The CHAIRMAN. Exactly. It may be arrived at in this way: What proportion of your estimate, eliminating the recommendation for purely increases of salaries, applies entirely to grades above \$1,200?

Mr. HITCHCOCK. Of the estimates?

The CHAIRMAN. Yes, sir. I am sure that is what Mr. Snapp means, and I think his inquiry is pertinent. But first, for a while, separate the idea of increase of salaries entirely, and let us arrive at what is absolutely necessary, according to your estimate, to conduct the business of the service on existing salaries.

Mr. HITCHCOCK. I have explained that the sum of \$39,200 includes all increases recommended in grades above \$1,200.

The CHAIRMAN. Well, let me get at it in a detailed way. Please look at the table on page 15 of the skeleton bill, a table which shows the grade of clerks in the first column, the number applied by the current law, and the estimate for 1908. The column showing the estimate for 1908, the total number of clerks in these various grades, includes your estimate for the increase of \$39,200, does it not?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. Does it include any additional employees at any of those grades—any additional number—other than obtained by the pure promotions? Take the first column: You provide for a promotion of six from the grade of \$2,600 to \$2,700—that is, you propose to increase the \$2,700 grade by six. Does that include any additional new men, or does it include entirely the promotion of men below that grade in this particular estimate?

Mr. HITCHCOCK. These are simply promotions, Mr. Chairman.

The CHAIRMAN. All of them?

Mr. HITCHCOCK. All of them.

Mr. STAFFORD. So the service does not require any additional new employees above the grade of \$1,200 than that which is now provided for by current law, so far as the number of employees are concerned.

Mr. HITCHCOCK. You understand, of course, that in the lower positions—

The CHAIRMAN. I am speaking of the \$1,200 positions.

Mr. HITCHCOCK. In the lowest positions in the grades above \$1,200, namely, in the \$1,300 grade, these promotions would naturally call for the advancement of employees from the grades below \$1,300 into the higher group of positions covered by the \$39,200 increase.

The CHAIRMAN. Your provision of 161 promotions from the \$1,200 grade to the \$1,300 grade would increase the total number in the service above \$1,200 by that amount.

Mr. HITCHCOCK. One hundred and eighty-two men would be advanced from \$1,200 to \$1,300.

The CHAIRMAN. You provide for an increase in the number of \$1,300 grade of 161; you provide for an increase in the class of \$2,000 by 8; \$2,100 by 5; \$2,400 by 10; \$2,700 by 6, making a total increase in the number of employees in grades above \$1,200 of how many?

Mr. HITCHCOCK. One hundred and eighty-two.

The CHAIRMAN. New men?

Mr. HITCHCOCK. One hundred and eighty-two men moved up from the lower grades.

The CHAIRMAN. So that the total number of employees in the service, if that were done, above the grade of \$1,200, would be increased by 182 men?

Mr. HITCHCOCK. Precisely.

The CHAIRMAN. But the promotions which would be operative by the vacancies created by these 182 men would be 452.

Mr. HITCHCOCK. Three hundred and fifty-seven, we figure it.

Mr. STAFFORD. But that does not answer my question, nor the question of Mr. Snapp. The 182 men who could be provided for in the \$1,300 grade would be promoted from the grades below \$1,200, and would be still in the service. Now, the purpose is—and it is a pertinent inquiry—whether the service demands any new officials to carry on the service in the grades above \$1,200, regardless of their salaries, by reason of increased business, and that provided for in the current law.

Mr. HITCHCOCK. That branch of the service comprising the grades above \$1,200 will be augmented by recruits, if I may use the term, from the lower grades—that is, from the grades below \$1,300.

Mr. STAFFORD. These 182 men who you say will be additional men are now in the service, are they not, at salaries below \$1,300?

Mr. HITCHCOCK. At salaries below \$1,300.

Mr. STAFFORD. They are performing the same character of service that they would perform under the new arrangement proposed by you?

Mr. HITCHCOCK. That would depend entirely upon the positions to which they were promoted.

Mr. STAFFORD. Leaving out entirely the idea of promotion of salaries, does the service demand any new positions in the grades as now constituted above \$1,200?

The CHAIRMAN. Do you need any additional assistant superintendents of carriers, assistant superintendents of registry, and so forth; does the service require additional designated employees?

Mr. HITCHCOCK. It most certainly does require additional em-

ployees in those grades. We are procuring them from the lower grades and advancing them to the higher positions.

Mr. STAFFORD. Can you give us the grades, or the names of the positions as at present classified, in which additional help will be needed in the coming fiscal year?

The CHAIRMAN. Suppose you apply that question first to one of the grades and then to each of the others where these promotions appear to exist.

Mr. HITCHCOCK. Our estimate as to what will be required is shown very specifically in the statement I submitted.

Mr. STAFFORD. Can you give the committee the number of employees in the various grades above \$1,300—not the number that the law provides for, but the number now employed in those various grades?

Mr. HITCHCOCK. That is stated in the table.

Mr. STAFFORD. This states the number that the current law provides for. Do I understand that in each grade the full number is in the service?

Mr. HITCHCOCK. Practically so. Of course vacancies occur at intervals, owing to deaths, resignations, and other causes.

Mr. STAFFORD. Are there any vacancies to any extent in the \$1,300 grade of the number now provided for by the current law, 445?

Mr. HITCHCOCK. So far as I am aware, there is not a single vacancy at present in the \$1,300 grade.

Mr. STAFFORD. Are there any vacancies to any extent above \$1,300?

Mr. HITCHCOCK. Not to any extent in any of those grades. It is possible there are a few vacancies in that entire group of positions, because of recent deaths or resignations, as I have said, but naturally we endeavor to keep the places filled. As rapidly as a vacancy occurs we fill it, so as to have the service performed. These positions, especially the higher ones, are largely executive in character, and we can not leave them vacant without detriment to the service.

Mr. STAFFORD. In the \$3,200 and the \$3,000 grades you ask for no increase of number from that provided in the current law. As to the \$2,700 grade, you ask for an increase of six over the number now provided in the current law. Are those six additional men required by increased service?

Mr. HITCHCOCK. This estimate, Mr. Stafford, is for the fiscal year beginning July 1 next, and naturally a question of that kind is pretty hard to answer at this time. The estimate expresses our judgment as to what will be required during the year.

Mr. STAFFORD. You have stated, Mr. Hitchcock, that these increases were for the purpose of promotion. The committee would like to know whether the service demands an increased number of officials by reason of increased business in these higher grades and in what grades those officials are needed.

Mr. HITCHCOCK. Mr. Stafford, the Department recommends the increases specified in the table, and precisely those increases in number and in amount.

Mr. STAFFORD. Increases in amount because you approve of their increases in salary, as stated, from one to two hundred dollars. But can you give us the number of men that will be required in any special grade by reason of increased business, regardless of promotions in salary?

Mr. HITCHCOCK. That is our estimate as to what will be required.

Mr. STAFFORD. In the six additional positions for which you make provision in the \$2,700 grade, will you kindly enumerate the designations of the officials for which those six men are required?

Mr. HITCHCOCK. You can tell that very readily by referring to the amount of increase for a given position. If the promotion carries an increase of \$200, it is a cashier; if it carries an increase of \$100, it is a superintendent.

Mr. STAFFORD. As to those six men, do I understand that they are now in the service and will be continued in the service only at an increased salary?

Mr. HITCHCOCK. I could not say as to that.

The CHAIRMAN. Do you not mean that if you increase the \$2,700 force there would be that many more superintendents? There are only superintendents in the \$2,700 class. There are no cashiers in that class at all.

Mr. GRANDFIELD. Superintendents of delivery and of mails.

The CHAIRMAN. Yes. Then it would not be the same men, but new superintendents.

Mr. HITCHCOCK. By studying this table you can readily ascertain whether a new superintendent will be possible or not under this scheme of promotion, because the minimum salaries of the several kinds of superintendents are prescribed by the classification act. When we promote an employee from a lower grade into one of the minimum grades for superintendents we frequently designate him as a superintendent. To that extent, of course, the total number of superintendents would be increased.

Mr. STAFFORD. Naturally, but can not you give us a statement as to what character of officers—not additional numbers, but what character of officers—you recommend for increased salary? There is a distinction between increased salaries and increased help, and we are trying to ascertain what additional men would be required, and in what classes of employees, in these higher grades. You have stated that the largest number will be required in the lower salaried grades, namely, those above \$1,300.

Mr. HITCHCOCK. The superintendents of delivery and of mails range from \$1,300 upward. The superintendents of money-order divisions range from \$1,000 upward. The superintendents of registry range from \$900 upward. The cashiers range from \$1,800 to \$2,600, in grades of \$200 each. The promotions from the \$1,200 grade to the \$1,300 grade, which is the minimum grade for superintendents of delivery and mails, would make it possible to increase the number of such superintendents to that extent, but only at that place in the scale. Promotions in the grades above \$1,300 might be simply increases in salary without change of designation.

The CHAIRMAN. And for the purpose of what you term equalizing the salary for the services they render.

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. That is, equalizing the service of other men with the same designation who are doing no better work and receiving higher-grade pay.

Mr. HITCHCOCK. I am trying to make it plain that when we move up employees from the lower clerical positions into the positions covered by the designation "superintendent"—that is, for instance,

when we move them up from the \$1,200 grade into the \$1,300 grade, we can then designate such employees as superintendents of mails or superintendents of delivery. The number of such promotions would represent the possible increase in the number of positions of that class—that is, of superintendents.

The CHAIRMAN. Have you indicated the total number of individuals who would be promoted simply for the purpose of equalizing salaries?

Mr. HITCHCOCK. Do you mean the promotions to \$1,300?

The CHAIRMAN. Are all intended for that purpose?

Mr. HITCHCOCK. The increased appropriation would be used very generally for advances in salary without change of designation.

Mr. STAFFORD. So of the 182 men that your table shows will provide for additional numbers of employees above the \$1,300 grade, there are some who are now employed at salaries and doing the same work below \$1,300?

Mr. HITCHCOCK. There are superintendents of money-order divisions and superintendents of registry below \$1,300, but no superintendents of mails and no superintendents of delivery.

Mr. STAFFORD. And those men are now employed at this lower-grade salary, performing the same character of work, but they would receive a higher salary when they would be advanced into the \$1,300 grade or above?

Mr. HITCHCOCK. Not performing the same character of work excepting in the specific sense that it is money-order work or registry work. It is not work of equal responsibility. As the office grows and the money order or registry branch becomes larger the responsibility of the superintendent increases and his compensation should be increased accordingly.

Mr. STAFFORD. Can you state, of these 182 men, how many are needed solely for the growth of the service, for new places?

Mr. HITCHCOCK. I can not state at this time, and I think it would be unwise to attempt to state. It will depend upon the peculiar needs of the service during the coming fiscal year. The conditions should be met as they arise.

Mr. STAFFORD. It was stated last year in the hearings that in these grades above \$1,300 the service would not require any additional men than those then carried in the then current law. Are there any additional reasons why additional places should be provided for in the ensuing fiscal year in those grades?

Mr. HITCHCOCK. It seems to me the unusual growth of the service is a sufficient answer to that question.

Mr. STAFFORD. Can you give us any estimate as to how many places will be needed by reason of the growth of the service, and in what respective positions those will be needed?

Mr. HITCHCOCK. Mr. Stafford, that is purely a matter of administration, and the decision should be reached when the actual conditions arise.

The CHAIRMAN. Let us try to arrive at that in a different way. Do I understand you, Mr. Hitchcock, to say that the recommendations as appearing on page 15 of the bill, and the table, contemplate the promotion of 357—that is, 357 promotions—which would increase the total number of employees above the grade of \$1,200 by 180 men?

Mr. HITCHCOCK. That is right.

The CHAIRMAN. According to this table, if the various promotions and increases of the number of employees should be carried out, it would result in 190, less the 8 decrease, leaving 182 increased number of men, but by those increases it would result in 357 promotions above the grade of \$1,200.

Mr. HITCHCOCK. That is right.

The CHAIRMAN. Now what proportion of the 182 men do you regard as absolutely necessitated by the increased volume of business, and what proportion due entirely to equalization of salaries?

Mr. HITCHCOCK. In order to answer that question specifically it would be necessary for me to state how many additional superintendents of mails, superintendents of delivery, superintendents of money-order branches, superintendents of registry branches, and cashiers would be necessary.

The CHAIRMAN. And that is exactly what I wanted to bring out. I assume that you have some sort of a basis upon which you have made that estimate. Now, what is it? I am not so particular as to how many assistant superintendents, how many assistant cashiers, and so forth, as I am as to how many in the total; and I think it might be well, if you have it there, to state just how many additional superintendents, and so forth, will be necessary on account of the increased service.

Mr. HITCHCOCK. Mr. Chairman, to answer that question specifically would require a definite knowledge of the special requirements of every one of the large post-offices.

The CHAIRMAN. The only information I am seeking to elicit is the character of information upon which you based your estimate.

Mr. HITCHCOCK. The promotions that we request in this statement are not based upon any definite estimate as to the number of additional superintendents that will be needed in the various offices throughout the country. That can not be told until the conditions in those offices become known during the progress of the fiscal year; as the emergencies arise they will be met.

The CHAIRMAN. I assume before you fixed upon the number, 182, that you must have cast about and figured on certain specific offices at which those additional employees would be really needed. How do you arrive at 182, and not at either 82, or at 282?

Mr. HITCHCOCK. As I explained earlier in the hearings, the purpose was to move up \$100 each all superintendents who are not receiving the maximum.

The CHAIRMAN. Then, in arriving at this number 182, if I understand you, you calculated that the salaries of superintendents were based upon an assumption of that salary being 50 per cent, or a fixed per cent, of some higher salary; and that because some of those superintendents are not getting the maximum per cent, in order to equalize you figured on just those that were below the maximum per cent, and it brought out this figure of 182.

Mr. HITCHCOCK. No, sir; that is not exactly so. The estimate covers the proposed promotions of superintendents, but I can not say that it is limited to such promotions. You did not ask me until just now what the basis of this recommendation was. In preparing my estimates I did not begin with this part of the clerical service—that is to say, with the positions above \$1,200. Naturally, in working

out an estimate to cover the entire clerical service before we had received returns from the Auditor (our estimate had to be submitted to the Secretary of the Treasury on the 15th of October), it was impossible to calculate with precision the exact amount that would be apportioned to each grade or even to each group of positions. We made the estimate of \$3,000,000, basing it upon such information as we then had; and later, in framing up the recommendations for your committee, apportioned the total amount in what appeared to be the most desirable manner to meet the conditions in the service. And having drafted the bill that is submitted in my annual report for the purpose of providing the salaries covered by our estimate to Congress, it was necessary for us in the first instance to allot from the \$3,000,000 increase a sufficient amount to carry out our plan of promotions in the grades from \$600 to \$1,200. After that allotment was made we were able to apportion to the grades above \$1,200 the sum of \$39,200.

The CHAIRMAN. Then, if I understand you, you did this: The total amount of your estimate for clerks in first and second class offices is 13.21 per cent over the current law. The increase of the current law over the preceding year was 8 per cent. Would you assume that the additional 5 per cent applies to increase of salaries, and that the 8 per cent approximately would cover the growth of the service?

Mr. HITCHCOCK. My estimate was based upon the presumption that we would need close to a million dollars for additional employees.

The CHAIRMAN. And then you took the \$2,000,000 remaining of the \$3,000,000 and distributed it through the service as you thought would be to the best interests.

Mr. HITCHCOCK. From what study I could give the needs of entire service, including what I was able to learn from postmasters from different parts of the country and from various officers and agents of the Department who had investigated conditions in the field, I reached the conclusion that we ought to ask for at least \$2,000,000 in the way of promotions in order to put this service on a satisfactory basis.

The CHAIRMAN. In distributing that \$2,000,000 for increases, you applied \$39,200 to the grades above \$1,200.

Mr. HITCHCOCK. We applied that amount to those grades after having made our allotment to the group of clerical positions covered by the new classification.

Mr. SNAPP. That is, you took care of the lower grades first?

Mr. HITCHCOCK. We took care of the lower grades and then used the surplus for the purpose of granting these promotions in the higher positions.

The CHAIRMAN. And in making that allotment to the grades above \$1,200 you were controlled largely by the equalization theory; is that correct?

Mr. HITCHCOCK. We found that we could not possibly, with the sum available, promote all superintendents who were below the maximum to the maximum. Even if such a course were desirable, it would be impossible under our estimates. So we reached the conclusion that the wise thing to do would be to give each of the superintendents receiving less than the usual salary an increase of \$100.

Mr. STAFFORD. And the cashiers \$200.

Mr. HITCHCOCK. Yes; because they are in grades of \$200 each.

The CHAIRMAN. I would like to draw out from Mr. Hitchcock the allotment of this \$2,000,000 for increases, so far as the grades below \$1,200 are concerned. Those allotments are based upon the recommendation for the new classification that you have recommended?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. That contemplates the discontinuance of the \$700 grade?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. The discontinuance of that grade entirely?

Mr. HITCHCOCK. Yes.

The CHAIRMAN. What does it do with reference to the employees now receiving \$400 and \$500 a year?

Mr. HITCHCOCK. Those positions would be abandoned and the same number of \$600 positions substituted for them. I do not say that in all cases the identical employees would be promoted to \$600, because I do not think that would be wise.

The CHAIRMAN. What class of employees are there now in the service at the grades of \$400 and \$500 generally—what is the class of employees?

Mr. HITCHCOCK. They are clerks in the smaller second-class offices.

The CHAIRMAN. Do they include clerks at substations or clerks in charge?

Mr. HITCHCOCK. No; those are provided for in another appropriation; simply the clerks in the smaller second-class offices.

The CHAIRMAN. Does your \$2,000,000, which you have recommended for increase of salaries, contemplate the increase of salaries of any considerable proportion of the clerks of second-class offices now receiving \$400 and \$500?

Mr. HITCHCOCK. It contemplates the promotion of all such clerks as are efficient and capable.

The CHAIRMAN. What proportion have you assumed for that in the estimate which you have made?

Mr. HITCHCOCK. Mr. Chairman, these clerks are chiefly unclassified as yet.

The CHAIRMAN. And they would remain unclassified yet if your new classification as recommended should be accepted.

Mr. HITCHCOCK. They would remain unclassified. Before making any promotions—that is, from \$400 to \$600 and from \$500 to \$600—I planned to have our field superintendents make inquiry at each office affected to ascertain which of the present employees receiving such salaries are qualified for promotion. In these small offices there are many young women and girls and some male clerks who are poorly qualified for such positions, and the purpose is to drop these inefficient employees and require the appointment of capable clerks in every instance where a change is made from one of these low-grade positions to the \$600 grade. We wish to discard these low-salaried places, in the interest of good service as well as for the purpose of making the classification system uniform.

Mr. STAFFORD. Right there: Last year, on February 14, there were 46 laborers employed at \$400, 28 at \$500, 312 at \$600, and 452 at \$700.

Will you kindly state what your plan is as to salaries, so far as the 46 laborers who were employed, or such who may be employed, at the salary of \$400?

Mr. HITCHCOCK. This plan does not affect laborers at all. They are provided for elsewhere and will continue as at present.

Mr. STAFFORD. They will come under the designation as laborers in the various classes?

Mr. HITCHCOCK. Precisely. This relates only to the low-grade clerks. It would eliminate only the low-grade clerks—that is, clerks receiving less than \$600.

Mr. STAFFORD. Can you give us the number of clerks now employed in the second-class offices at salaries below \$600?

Mr. HITCHCOCK. There are 305 receiving \$400 and 815 receiving \$500.

Mr. STAFFORD. Can you state what has been the policy of the Department, so far as clerks in second-class offices are concerned, as to salary that they should receive during their first year of service?

Mr. HITCHCOCK. That depends upon the size of the office. In the larger offices we have appointed clerks at an initial salary of \$600. In the smaller offices we have, so far as the positions were provided by Congress, utilized these low-grade clerkships. That is how they happen to exist.

Mr. STAFFORD. I was under the impression that the rule of the Department was, as to second-class offices, to start the clerks in at \$500 salary, and in the first-class offices at \$600.

Mr. HITCHCOCK. So far as the low-grade positions have been provided we naturally utilize them.

Mr. STAFFORD. Then you would not start them in at \$600 if there were \$500 places provided in the service?

Mr. HITCHCOCK. We are obliged to utilize all our resources, and of course we utilize the low-grade positions in the smaller offices; but we believe that it would be better to provide not less than \$600 as the initial salary of clerks in an office of the first or second class. We believe it is wiser to appoint in the entrance grades employees who are better qualified to advance later to the higher positions. The result of providing these low-salaried positions is that in many cases young girls are employed, or men who are not capable of obtaining higher wages. Usually these positions are in unclassified offices, and the inefficient employees who are brought into the service through the classification of such positions thus become permanent clerks under the civil service. It is not the best material from which to make efficient post-office employees.

The CHAIRMAN. In order to get it plainly before the committee, in your recommendation of an increase of \$3,000,000 for compensation to clerks, you estimate \$1,000,000 to be applied entirely to the appointment of new clerks required by reason of the increased volume of service, and that would contemplate 2,742 additional clerks. Is that correct?

Mr. HITCHCOCK. Practically a million dollars in round numbers. The exact sum, as we figure it out, is \$889,800.

The CHAIRMAN. And about 2,700 additional clerks?

Mr. HITCHCOCK. 1,483 clerks at \$600 for the full year. As we allot them at intervals throughout the year, the number actually appointed would be very much larger.

The CHAIRMAN. That would leave, approximately, \$2,000,000 to be applied to the increase?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. And of that \$2,000,000 you contemplate the application or allotment of about \$39,200 for grades above \$1,200?

Mr. HITCHCOCK. Precisely.

The CHAIRMAN. And then it also contemplates the increase of all clerks in first-class offices below \$1,200 and above \$600 by \$100 each?

Mr. HITCHCOCK. Not all.

The CHAIRMAN. How many clerks would it provide for?

Mr. HITCHCOCK. It would provide for the promotion of all clerks in first-class offices in the \$600, \$700, \$800, and \$900 grades.

The CHAIRMAN. All of the clerks in the \$600, \$700, \$800, and \$900 grades?

Mr. HITCHCOCK. During the year. Not necessarily on the 1st of July, but during the year; and in second-class offices all the clerks in the \$600, \$700, and \$800 grades. The \$700 grade would be entirely absorbed in the \$800 grade.

The CHAIRMAN. Then all the clerks in either first or second class offices of the \$700 grade would be promoted?

Mr. HITCHCOCK. They would go into the \$800 grade.

The CHAIRMAN. And some of the \$600 grade and some of the \$800 grade would be promoted, but not all?

Mr. HITCHCOCK. Those who had served for one year and had given satisfactory service.

The CHAIRMAN. The application or allotment of this \$2,000,000 for increases which you have recommended would contemplate the increase of salaries in first-class offices—that is, some time during the year—of all of the employees getting \$600, \$700, \$800, and \$900?

Mr. HITCHCOCK. At some time during the year, except, of course, those appointed during the year.

The CHAIRMAN. No clerk who had served less than a year would be promoted?

Mr. HITCHCOCK. No, sir. No clerk who had served less than a year would be promoted.

The CHAIRMAN. What proportion of the clerks above \$900 in offices of the first class would it contemplate promoting?

Mr. HITCHCOCK. It would contemplate the promotion of 30 per cent of the clerks in the \$1,000 grade and 20 per cent of the clerks in the \$1,100 grade, under the condition just described, namely, that they must serve satisfactorily for a year in the grades from which promoted.

The CHAIRMAN. Does this contemplate the promotion of any clerk in the \$900 grade in an office of the second class?

Mr. HITCHCOCK. It does not contemplate the general promotion of clerks receiving \$900 in second-class offices, but it makes possible, as I have explained in my report, the promotion of such clerks where it is necessary to do so in order to retain them in the service.

The CHAIRMAN. That would be possible under the law if your recommendation relative to the reclassification should be adopted, but what I am now trying to understand is where the \$2,000,000 would be distributed under your allotment. If I understand you, \$39,200, we will say for the purpose of explanation, would be allotted to

grades above \$1,200. Then, it would contemplate the increase during the year where a person had served at least a year and one additional quarter, 20 per cent of those receiving \$1,100, and 30 per cent of those receiving a thousand dollars in first-class offices.

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. What per cent of those receiving \$900 in first-class offices, all of them?

Mr. HITCHCOCK. One hundred per cent; all clerks receiving \$900 in the first-class offices who have served at least one year satisfactorily at that compensation.

The CHAIRMAN. Then, as to the clerks in first-class offices receiving \$800; all of them?

Mr. HITCHCOCK. All of them to \$900.

The CHAIRMAN. And the clerks receiving \$700 and \$600; all of them?

Mr. HITCHCOCK. In the same way; yes, sir.

The CHAIRMAN. And in offices of the second class, all of those receiving \$600, \$700, and \$800?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. Yet that allotment only contemplates \$2,000,000?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. According to a hasty estimate which I have made, you can promote all of the clerks in the thousand dollar and eleven hundred dollar grades during the year and still not increase your \$2,000,000 more than a hundred thousand dollars. In other words, if you had \$2,000,000 of this increase you could make all the increases you have suggested and still have enough to increase the other 80 per cent of the \$1,100 and 70 per cent of the \$1,000 clerks?

Mr. HITCHCOCK. In making your estimates have you included the advancement of \$600 clerks to \$800, an increase of \$200, in both classes of offices?

The CHAIRMAN. Yes, sir.

Mr. HITCHCOCK. Did you include also the promotion of clerks receiving \$400 and \$500 into the \$600 grade?

The CHAIRMAN. I did not.

Mr. HITCHCOCK. They should be included.

The CHAIRMAN. If you increase the amount \$39,200 in grades about \$1,200 and then should increase all clerks in first-class offices below \$1,200 by \$100, except the clerks of \$600 and advance those \$200 each, and then increase all the clerks in the second-class offices of the present grade of \$700 by \$100 and those in the \$600 grade by \$200, it would not make much more than \$2,000,000, about \$100,000.

Mr. HITCHCOCK. Suppose I read you the calculations we have made covering all these positions and let the figures go into the record in the form of a complete statement?

The CHAIRMAN. Very well.

Mr. HITCHCOCK. This increase of \$3,000,000, should the proposed classification be enacted into law, would be apportioned as follows:

For 357 promotions in the higher grades (from \$1,300 to \$3,200)-----	\$39,200
For promotions in the higher clerical grades:	
820 from \$1,000 to \$1,100 (30 per cent)-----	82,000
344 from \$1,100 to \$1,200 (20 per cent)-----	34,400

For promotions in the higher clerical grades—Continued.

12,544 in the grades from \$600 to \$1,000 at first-class offices.....	\$1,399,600
3,865 in the grades from \$600 to \$900 at second-class offices.....	358,500
For promotions to the \$600 grade from lower clerical positions:	
855 from \$500 to \$600.....	85,500
305 from \$400 to \$600.....	61,000
For total promotions.....	2,060,200
For 1,483 additional clerks at \$600.....	889,800
For additional contract stations.....	50,000
Grand total	3,000,000

The CHAIRMAN. All of those promotions would not be made at one time?

Mr. HITCHCOCK. That is the maximum amount that would be required under our plan.

The CHAIRMAN. That is true, but at the end of the year or upon the first day of July, 1908, there would be a charge for these various employees on account of these increases of a still larger sum?

Mr. HITCHCOCK. The \$2,000,000 increase covers all promotions, including those from \$600 to \$1,000 in first-class offices and those from \$600 to \$900 in second-class offices.

The CHAIRMAN. Suppose you promote a certain per cent on the first of July and another per cent on the first of each succeeding quarter at these annual rates; do I understand that \$2,000,000 is the annual charge or the total charge of the promotions?

Mr. HITCHCOCK. It is the maximum of all the promotions.

The CHAIRMAN. Is it the maximum annual charge or the maximum amount to be paid during the next fiscal year?

Mr. HITCHCOCK. It is the maximum for the next fiscal year.

The CHAIRMAN. Of money to be paid?

Mr. HITCHCOCK. Of money to be paid.

The CHAIRMAN. But you will appreciate that if some of these promotions are not made until later than the first of the fiscal year that the annual rate of pay will be greater than \$3,000,000 when you come to make provision for that payment at a subsequent fiscal year. How many different promotions does that contemplate, approximately?

Mr. HITCHCOCK. I have just given it in this statement.

The CHAIRMAN. Something in the neighborhood of 5,000?

Mr. HITCHCOCK. More than that; 16,741.

The CHAIRMAN. Approximately 16,000 promotions, making an outlay of \$2,000,000 during the next fiscal year. Is that correct?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. But will not those 16,000 promotions engraft a certain charge at an annual rate after the next fiscal year greater than \$2,000,000?

Mr. HITCHCOCK. You should take into account the fact that during the first year we shall make certain promotions that will not occur in subsequent years, as, for example, the advancing of the clerks in the grades below \$600 and the advancing of the clerks in the \$700 grade. It should be remembered also, Mr. Chairman, that whenever a vacancy occurs in the higher grades a new appointment will be made at \$600 per annum. Thus, as clerks drop out of the higher grades the rate of charge will be diminished.

The CHAIRMAN. I still feel that if you should promote during the next fiscal year 16,000 clerks by \$100 each, that during the subsequent fiscal year which follows the next it would be necessary to add to the appropriation bill \$1,600,000 to meet the increases which have been provided this year. Is not that true? So that the next appropriation bill would have to carry \$1,600,000 additional on account of the promotion of 16,000 clerks during the year.

Mr. HITCHCOCK. I would like to figure a little on that problem before making a definite statement.

The CHAIRMAN. It does not seem to me that there is much need of figuring.

Mr. HITCHCOCK. There is so much to be deducted in the way of lapsed salaries.

The CHAIRMAN. Assuming that the 16,000 clerks who were promoted during the next fiscal year remain in the service at their various grades, the annual rate at which they are employed would be advanced \$1,600,000 on account of the promotions during the year by a hundred dollars.

Mr. HITCHCOCK. Whatever may be the annual rate hereafter it is my judgment that this appropriation ought to be made.

The CHAIRMAN. I am not questioning that. I am trying to arrive at the sum of money that this would require during the subsequent year.

Mr. HITCHCOCK. Unquestionably the salaries would have to be continued.

The CHAIRMAN. At the annual rate?

Mr. HITCHCOCK. As to the exact amount, I am not sure that it would be as much as you say; possibly it would be. The same method of compensation would be followed as that now followed in the case of the carriers. There would be the same rate of charge upon the Government.

The CHAIRMAN. According to the calculation which I make, you allot \$39,200 to grades above \$1,200 and then provide for a hundred-dollar promotion during the year some time of all clerks in first-class offices below \$1,200, except those of the \$600 grade, and promote them by \$200 to the \$800 grade, which would make an annual rate of \$1,827,700. Then, if all the clerks in the second-class offices of the present grade of \$700 should be increased by \$100, and those of the \$600 grade by \$200, it would require an annual charge of \$362,700, making a total of \$2,129,600. Would not that be a better provision than the one which you have made, which contemplates about 20 per cent increase of clerks in the \$1,100 grade and 30 per cent of the \$1,000 grade, and in addition provides for the promotion of clerks in second-class offices below the \$600 grade? To restate the proposition simply: Is not it better to let the clerks in the little second-class offices below \$600 alone and apply a higher per cent of increase to the clerks in the first-class offices above \$1,000?

Mr. HITCHCOCK. It is my judgment that it would be better to fix the initial salary in all second-class offices at \$600, and thereby make it possible to obtain a better class of employees, for these employees are finally classified into the service and become permanent clerks. It is the material, to a considerable extent, from which we have to draw in filling the higher positions in our post-offices. I am strongly

of the opinion that it is a mistake to attempt to get employees at such salaries as \$400 and \$500. I think it would be wise to abandon those grades and to make the initial salary \$600 in all first and second class offices. If we can hold out the definite assurance that after an employee has given satisfactory service for one year he can be promoted to \$800 we shall be able to get a better class of employees. It will be economy in the end to do that.

Mr. SNAPP. In this statement you use this language: "This increase, should the proposed classification be enacted into law, would be apportioned as follows." Would the amount of appropriation which you recommend here be apportioned in the same way even if the classification that you recommend were not enacted into law?

Mr. HITCHCOCK. It would be so apportioned, except as regards certain positions omitted in any bill that would be continued if the law were not enacted. That is to say, the \$700 grade would still exist if the law were not enacted, and therefore it would be necessary to provide for the clerks in that grade. Similarly, if the \$400 and \$500 positions were continued it would be necessary to provide for the clerks in those grades.

Mr. SNAPP. Please explain why. If the appropriation was made as you recommend, what is to prevent the Department from making the promotions and fixing the salaries, according to your statement, in each of these grades?

Mr. HITCHCOCK. We recommend that these changes in salaries be made whether or not the proposed bill is enacted into law. I thought your question related to the present form of appropriation as regards the various grades. Under the new form of appropriation we recommend the promotions can be made in the manner suggested whether or not the classification bill passes.

Mr. SNAPP. Supposing we follow your recommendation as outlined in this statement, would the apportionment be made as provided in the statement whether the classification bill you recommend was passed or not?

Mr. HITCHCOCK. Yes, sir; that is the plan. We recommend this change whether or not the classification bill is passed.

Mr. SNAPP. My question is, will the Department follow this proposed classification of salaries whether the classification bill you recommend is passed or not, if we give you the money?

Mr. HITCHCOCK. If the money is given we will follow the plan described.

Mr. FINLEY. In reference to the promotions which you have provided in the second-class offices, I understand that you propose to abolish the \$400 and \$500 grades, practically speaking, in order to promote the efficiency of the service, and to retain promising men who will become efficient postal clerks. Do not the same reasons apply that apply to the clerks in first-class offices?

Mr. HITCHCOCK. I think they do.

Mr. FINLEY. Is it not true that in second-class offices it is found largely impossible to obtain efficient men at those salaries?

Mr. HITCHCOCK. As a general rule it is impossible to induce capable men to work in a post-office for \$400 or \$500 a year.

Mr. FINLEY. Who are efficient men or when they have reached the point of efficiency they want something better?

Mr. HITCHCOCK. The kind of men we want to bring into the service we can not get at those salaries. I have discussed the question with many postmasters and the general impression seems to be that it is a mistake to introduce into the service the class of employees that will accept such low salaries.

Mr. FINLEY. You can not keep them after they become efficient?

Mr. HITCHCOCK. It has the injurious effect of starting in the service inferior employees who afterward become permanent under the method of classification.

Mr. FINLEY. And it also prevents a man of the higher order from getting into the service?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. How many additional clerks does your estimate contemplate?

Mr. HITCHCOCK. One thousand four hundred and eighty-three for the full year.

The CHAIRMAN. There has been a considerable demand for additional clerks during the current year?

Mr. HITCHCOCK. There has been an extraordinary demand, a demand that we have not been able to meet.

The CHAIRMAN. How does the number of new clerks authorized by the current law measure up to the present demand?

Mr. HITCHCOCK. It is inadequate.

The CHAIRMAN. Your estimate for additional service for the current year was granted in full by Congress for new service?

Mr. HITCHCOCK. Yes, sir; the full number of additional clerks.

The CHAIRMAN. Has that proven a less number than the service really demands?

Mr. HITCHCOCK. The number estimated for by the Department was decidedly too small.

The CHAIRMAN. That was on account of the growth of the business being greater than estimated for?

Mr. HITCHCOCK. Because of the unprecedented growth.

The CHAIRMAN. What is the present state of your allowance under the current law for additional clerical hire?

Mr. HITCHCOCK. There is at present an apparent deficit, which we expect will be met by the lapsed salaries.

The CHAIRMAN. Will you please state briefly to the committee where this increased demand comes from, what sections of the country, and what appears to the Department to be the cause of the growth of the service in those sections.

Mr. HITCHCOCK. It comes from all sections of the country.

The CHAIRMAN. Has the per cent of growth of the service been rather uniform?

Mr. HITCHCOCK. I think it has been pretty evenly divided as between the East and the West.

The CHAIRMAN. Practically half of the fiscal year has expired, and you now find that the amount estimated for new service for this year was how much too short, as to the number of clerks?

Mr. HITCHCOCK. That is a pretty hard question to answer, because there is still a considerable part of the year to provide for.

The CHAIRMAN. With the information which you have now, had you had it when you made your estimate for the current year, what

increase in the number of clerks would you probably have estimated for?

Mr. HITCHCOCK. I would like to do a little figuring before answering that question.

The CHAIRMAN. I thought possibly you might have some approximate figures. My question was merely this: If the allowance for clerk hire at first and second class offices was much short of what the growth of the service has demonstrated it should have been, whether or not there is some probability of your having estimated too low now for the next fiscal year; do you feel that your estimate, based entirely on the growth of the service and exclusive of your recommendations for increase, is ample for the next fiscal year?

Mr. HITCHCOCK. If we can provide a reasonable plan of promotions for the service, I believe it will be possible to conduct the postal business with considerable less increase from year to year than is now the case.

The CHAIRMAN. By holding more efficient clerks and stimulating their interest by fair salaries?

Mr. HITCHCOCK. Precisely.

The CHAIRMAN. And that you can do better business than with a larger number of employees at less salaries?

Mr. HITCHCOCK. That is my feeling about this problem, and I am frank to say that the estimate I have submitted for additional clerks is low. No doubt it would be too low under present conditions in the service. If the service should be conducted as at present, and the growth of the postal business be maintained, I fear it would be necessary to call for additional clerks later in the year.

The CHAIRMAN. Are you prepared to give any estimate as to how many additional clerks would be necessary?

Mr. HITCHCOCK. I am not. It is simply my conviction that unless we are able to change radically the present conditions of employment in the postal service it will be necessary to go on piecing out from time to time with larger numbers of untrained men.

Mr. STAFFORD. You stated that you had provided \$889,800 for purely additional service. That amount would be distributed over the year in the appointment of additional clerks. Dividing that amount by 600 I believe you arrive at the number, 1,483 additional clerks. Will you not appoint under your present arrangement more additional clerks than 1,483 by reason of the allotment of the same over the various quarters of the year?

Mr. HITCHCOCK. Unquestionably. That is the reason why I stated to the chairman 1,483 additional clerks for a full year. As a matter of fact, the clerks will be appointed at intervals during the year.

Mr. STAFFORD. So that more than 1,483 will really be appointed during the year?

Mr. HITCHCOCK. Decidedly more.

Mr. STAFFORD. Can you give us the maximum number that will be appointed with an allowance of \$889,800 for additional service?

Mr. HITCHCOCK. I could hardly do more than make an estimate, for the allotment of clerks will be determined by the varying conditions from month to month throughout the year.

Mr. STAFFORD. So you do not wish to be understood that only 1,483 additional clerks will be needed during the current fiscal year, but that many more will be appointed out of this \$889,800?

Mr. HITCHCOCK. Unquestionably.

Mr. STAFFORD. Can you give us the number of additional clerks that the service during the present fiscal year has required to have been appointed?

Mr. HITCHCOCK. I am sorry to say that I have not with me a statement showing the various allotments of clerks during the year. That can be readily prepared.

Mr. STAFFORD. It is in excess of 1,500?

Mr. GRANDFIELD. It is just about 1,500.

Mr. HITCHCOCK. I think it is something over 1,500.

Mr. STAFFORD. And you believe that you may have need to call for a deficiency appropriation for additional clerical service on account of the growth for the current fiscal year.

Mr. HITCHCOCK. I think that very probable.

Thereupon, at 12.45 p. m., the committee took a recess until 1.30 p. m.

AFTER RECESS.

STATEMENT OF HON. FRANK H. HITCHCOCK—Resumed.

Mr. HITCHCOCK. Before the hearing begins I will state that I have the two letters that were called for at the meeting yesterday, and I presume they ought to go into the record.

The CHAIRMAN. If you will hand them to Mr. Williams, in the compilation of the testimony of yesterday, he will insert them at the proper places.

Mr. HITCHCOCK. I also have the text of the act of which you wanted a full copy. That can go in also if you think it necessary. It is the act adjusting the salaries of postmasters.

Mr. STAFFORD. Taking up the consideration of the appropriation of last year for clerks in charge of contract stations, in which the committee for the first time segregated the appropriation to those receiving over \$300 and those under \$300, what have you to recommend as to those positions?

Mr. HITCHCOCK. In submitting our estimates a year ago, you will recall that we recommended a single fund for all these stations, but the committee separated it into two funds.

Mr. STAFFORD. What does the Department recommend this year? In the printed bill I find both those items within brackets, which indicates that it has been recommended for omission.

Mr. HITCHCOCK. We recommend that a single fund be appropriated, in this language: "For the maintenance of contract stations at not exceeding \$1,000 each, \$750,000: *Provided*, That not more than \$150,000 shall be expended for the maintenance of such stations in the grades above \$500."

That provision would throw the entire appropriation into a single fund, and at the same time limit the expenditures for stations carrying compensation above \$500 to the amount named, \$150,000. It would greatly simplify the accounting and would enable us to utilize the entire fund. The difficulties we experienced in endeavoring to administer the appropriation as granted last year in the shape of two distinct funds would be avoided.

Mr. STAFFORD. How much of that \$750,000 is an increase over the two present appropriations?

Mr. HITCHCOCK. Fifty thousand dollars.

Mr. STAFFORD. Can you state the amount that is now paid to clerks in charge of contract stations above \$500, and the number of each.

Mr. HITCHCOCK. On January 1, 1907, there were 119 in the grades above \$500.

Mr. STAFFORD. Can you give them in the respective grades?

Mr. HITCHCOCK. There were 4 in the \$1,000 grade, 16 in the \$900 grade, 19 in the \$800 grade, 28 in the \$700 grade, and 52 in the \$600 grade.

Mr. STAFFORD. Can you give the number below \$600?

Mr. HITCHCOCK. Yes; there were 100 in the \$500 grade, 192 in the \$400 grade, 459 in the \$300 grade, 826 in the \$200 grade, 1,474 in the \$100 grade, 140 at \$50, 1 at \$4, and 4 at \$1—a total of 3,316 stations.

The CHAIRMAN. Suppose you give the total at \$500 and less, and the total at \$600 and more—separate them in that way.

Mr. HITCHCOCK. There were 119 above \$500 and 3,197 below \$600.

The CHAIRMAN. Below \$600?

Mr. HEDGE. Including \$500?

Mr. HITCHCOCK. Yes; 3,197 below \$600.

Mr. STAFFORD. Why do you recommend, other than for the reasons you have heretofore stated, the dividing line between the \$600 and \$500 grades rather than between \$400 and \$300?

Mr. HITCHCOCK. Simply because that seemed to be a more logical line of division.

Mr. STAFFORD. But the great bulk, the great number, of these positions are found in the grades below \$300, and only a little more than four hundred are above that grade?

Mr. HITCHCOCK. The great bulk of the stations were included under the clause in the present appropriation that provided for stations carrying salaries below \$400.

Mr. STAFFORD. You make a recommendation for an increase in these two items of \$50,000. If the committee should continue the present segregation at the dividing line between three and four hundred dollars, in what class would that increased appropriation be most needed?

Mr. HITCHCOCK. If the present separation should be continued it would be desirable to divide the \$50,000 fund between the two groups of stations.

Mr. STAFFORD. Is there not more pressing need for the establishment of stations in the lower grades than there is in the higher grades?

Mr. HITCHCOCK. Yes, sir.

Mr. STAFFORD. Should there not be a greater portion of that increase allotted to the smaller grades, or to the appropriation for the smaller grades?

Mr. HITCHCOCK. The provision that not exceeding \$150,000 shall be expended for stations above \$500 is intended to give the Department sufficient leeway. It is not likely that we shall expend that amount. As I stated at the hearings a year ago, I am strongly in favor of increasing the number of low-salaried contract stations. I am against the plan of having large contract stations. I believe in dividing up the business and distributing it. Instead of having

one station paying \$900, for example, I think it would be better to divide the business between several stations, thus bringing the postal facilities closer to a larger population.

The CHAIRMAN. Then this additional \$50,000 which you recommend is to be applied to the establishment of new stations, and not for the purpose of increasing the compensation of those already established?

Mr. HITCHCOCK. It is to be utilized for both purposes, but mainly for the purpose of increasing the number. We are constantly dividing up the large-salaried stations. When a station reaches the \$900 grade or the \$1,000 grade, we endeavor, if practicable, to reorganize it in such manner as to scatter the business among several stations.

The CHAIRMAN. Would it not be better to use the language of the present law, even though the \$500 should be the dividing line rather than the \$300, than to adopt the recommendation which you have just made of one item of the total amount, with a proviso in it with reference to those stations above \$500? In other words, is it not better to maintain the strict segregation as between the limit, whether that limit be \$300 or \$500?

Mr. HITCHCOCK. Mr. Chairman, I think that the plan of consolidating the appropriation is decidedly the better of the two.

The CHAIRMAN. For administrative purposes?

Mr. HITCHCOCK. For administrative purposes and particularly because of the accounting. If you have two funds, you must have two accounts, and when you transfer a station from one account to the other, you have that additional complication. That, in my judgment, is one of the great difficulties with the administration of the postal service—the methods of accounting are too complicated.

The CHAIRMAN. But the segregation, on the other hand, permits Congress to keep a better detailed scrutiny of the appropriations.

Mr. HITCHCOCK. That purpose can be accomplished just as readily and just as positively by this provision that limits the amount we can utilize in the grades above \$500 to a specific sum. It answers the same purpose without necessitating the two accounts, and makes it a simpler matter for us to reduce a station from, say, the \$600 grade to the \$400 grade, because it is all in one account.

Mr. SNAPP. Can you indicate to the committee about how you would use this appropriation in the different grades if it was granted in a lump sum?

Mr. HITCHCOCK. It would not make any difference in the method of utilizing the appropriation.

Mr. SNAPP. I mean the number of stations of each grade?

Mr. HITCHCOCK. I have just given the number of stations that are now in existence.

Mr. SNAPP. That are now established?

Mr. HITCHCOCK. In each group—that is, those above the \$500 grade and those from \$100 to \$500.

Mr. SNAPP. Would that classification be continued if this appropriation of \$750,000 in a lump sum were made?

Mr. HITCHCOCK. Not precisely. It would not be continued even if there were two separate funds. We are constantly changing the stations to meet changing conditions.

Mr. SNAPP. What changes, then, would you be likely to make if this appropriation was made as you suggest?

Mr. HITCHCOCK. The change that I chiefly favor is an increase in the number of small, low-salaried stations.

The CHAIRMAN. Below what sum; below the \$500 or below the \$200?

Mr. HITCHCOCK. Chiefly stations paying \$100, \$200, and \$300. As far as practicable I favor also a decrease in the number of high-salaried stations and a division of their business among smaller stations.

Mr. SNAPP. Do you mean you would decrease the high-salaried stations as fast as possible?

Mr. HITCHCOCK. I would decrease, as far as possible, the number of large stations and multiply the small ones.

Mr. SNAPP. By increasing the number?

Mr. HITCHCOCK. By increasing the number and giving smaller salaries.

Mr. STAFFORD. Was any difficulty encountered in the administration of the appropriation for clerks by reason of an erroneous estimate having been furnished the Committee for the segregation of these two items for clerks in charge of contract stations; and if there was, will you kindly state how the confusion arose?

Mr. HITCHCOCK. There was considerable difficulty this year, and the fault lies with the Department. In submitting our list of contract stations we included only what were technically known as "numbered" stations. The clerk who compiled the list omitted other contract stations that should have been included, and thus the total number reported to the Committee was less than the actual number in existence.

Mr. STAFFORD. What other stations besides the numbered stations were under contract?

Mr. HITCHCOCK. There are stations that have, in addition to the money-order and registry business and the sale of postal supplies, a limited mail distribution; and it was the omission of such contract stations from the list submitted to the Committee that caused the difficulty. These other contract stations had to be carried under the same appropriation.

Mr. STAFFORD. What provision has been made in your recommendations to care for and carry those other stations? My purpose is to have it pointed out by you and ask you whether you had that matter in mind making recommendations this year in the pending bill.

Mr. HITCHCOCK. These other stations are included in the number I have just stated to you. This, you will observe, is the total of all contract stations.

Mr. STAFFORD. Of all contract stations?

Mr. HITCHCOCK. Of all such stations.

Mr. STAFFORD. Whether numbered or whether they have this additional feature that you speak of?

Mr. HITCHCOCK. Yes. A year ago, when we should have reported the total number of contract stations, it happened through a clerical error that only the so-called numbered stations were given. In this estimate all contract stations are included.

Mr. STAFFORD. So you care for that condition by your recommendation for the present year?

Mr. HITCHCOCK. Yes, sir. We were compelled this year to squeeze into the appropriation the various contract stations that were omitted in our statement to the committee; and that has resulted in numerous reductions of salary.

Mr. STAFFORD. And in the numbers of stations that you have just given us, those additional contract stations are included?

Mr. HITCHCOCK. They are included now. The \$50,000 increase relates to the entire group of contract stations.

Mr. STAFFORD. Do you contemplate that you will have need to call for any additional appropriations for needed clerks in the service during the current year?

Mr. HITCHCOCK. Do you mean at these contract stations?

Mr. STAFFORD. No; I am going back to the original subject of clerks.

Mr. HITCHCOCK. I think it quite likely that it will be necessary to ask for a special appropriation to provide additional clerks for the service.

Mr. STAFFORD. Have you considered what amount you will ask for that service?

Mr. HITCHCOCK. I have done so, in a general way. The principal need at present appears to be on the Pacific coast. I recently summoned to Washington our field superintendent for that district. He is familiar with the conditions there, his work giving him an intimate knowledge of all the offices of that region. Since his arrival in Washington I have had one or two conferences with him, but we have not completed our estimate in detail.

Mr. STAFFORD. How soon will you arrive at that estimate?

Mr. HITCHCOCK. As soon as these hearings are over I shall have time to take up the matter and complete the estimate.

Mr. STAFFORD. Do you think you can furnish the committee by letter with any such estimate before we take up the preparation of our bill?

Mr. HITCHCOCK. I think that a day or two after you conclude the hearings I can submit a statement covering that matter.

Mr. STAFFORD. Mr. Chairman, I think it would be serviceable for us to have such a statement.

Mr. HITCHCOCK. I think that it will be necessary to provide about 300 additional clerks for the Pacific coast.

The CHAIRMAN. Do you mean for immediate use?

Mr. HITCHCOCK. For use during the remainder of the current fiscal year.

Mr. SNAPP. Largely at San Francisco and that vicinity?

Mr. HITCHCOCK. Chiefly at San Francisco and Seattle; I might say chiefly at San Francisco and the neighboring cities, and at Seattle.

Mr. STAFFORD. Have you furnished the committee or have you any table showing the number of clerks performing clerical services in the grades below \$1,200, as divided between offices of the first class and second class?

Mr. HITCHCOCK. My impression is that I sent a table to the chairman of the committee giving that information in detail.

Mr. STAFFORD. I only wish to know that the committee has it. If we have it, it is all right.

The CHAIRMAN. I have it here. In a letter under date of December 17, addressed to me by Mr. Hitchcock, he says:

In compliance with your oral request of the 11th instant, I transmit herewith a statement showing the number of clerks by grades in first-class offices, and also the number by grades in second-class offices. The statistics relating to city carriers will be compiled and will be sent you as soon as possible.

Then follows a table.

Mr. STAFFORD. Those are the very figures that I was asking about.

The CHAIRMAN. And I will put it into the record, Mr. Stafford.

Number of clerks and subordinate employees in first and second class offices paid from the appropriation for clerk hire on December 1, 1906.

Grade.	First-class offices.			Second-class offices, clerks.
	Clerks.	Laborers, janitors, etc.	Printers and mechanics.	
\$400	28	20		231
\$500	106	48		661
\$600	2,534	474		983
\$700	3,146	457	1	923
\$800	4,161			829
\$900	3,108		7	365
\$1,000	2,479		6	240
\$1,100	1,715		5	
\$1,200	1,810		10	

Now, Mr. Hitchcock, you may indicate to the committee what information you have as to the necessity of additional clerks on the Pacific coast, to which you have referred.

Mr. HITCHCOCK. The difficulty on the coast appears to lie chiefly in the inability of the postmasters to retain experienced employees in the post-offices because of the higher wages prevailing outside. From my talk with our field superintendent, Mr. Hall, who has come east at my request to discuss the matter, I gather that if we had been able to pay suitable salaries comparatively little increase in the number of employees would be necessary at this time. But so many trained employees have gone out of the service as to lower the standard of efficiency, and that makes it necessary to increase materially the size of the force. I should like to read a few extracts from a memorandum Mr. Hall prepared for me yesterday regarding conditions on the Pacific coast.

Mr. SPERRY. You say the standard of efficiency has decreased. What do you lay that to?

Mr. HITCHCOCK. It is due to the fact that experienced clerks have gone out of the post-offices in large numbers. Men who had been in the service for years and had become expert distributors, have resigned in large numbers, and it has been necessary to appoint inexperienced men. As you know from your own experience as a postmaster, it takes some years for a post-office employee to become proficient in the handling of mail.

Mr. SPERRY. I know; but when those experienced men go out of the office, the community loses the best services which can be secured from experienced men by putting in raw recruits, and thereby the efficiency of the office is lowered to a great extent, is it not?

Mr. HITCHCOCK. That is exactly what I meant by my statement.

Mr. SPERRY. In your judgment—take those that pass the civil-service examination and are posted, ready, as you know, and a clerk goes out—what proportion of those men that have passed the civil-service examination show an adaptability to post-office work?

Mr. HITCHCOCK. I should say that under present conditions not over half of the employees who are being appointed in the post-offices are properly qualified to do the important lines of work required of post-office clerks—the work of distribution, as it is technically called; the rapid and accurate sorting of mail. We have had some very unfortunate experiences recently in certain of our large cities. We have appointed many new clerks and have found that a considerable percentage of them did not have the capacity to memorize the intricate schemes that have to be learned in order to enable such clerks to perform the work of distribution.

Mr. SPERRY. They could pass first-class examinations, but were not adapted to the peculiar work assigned to them in the office? That was it, was it not?

Mr. HITCHCOCK. Unquestionably.

Mr. SPERRY. That has been my experience.

The CHAIRMAN. Now, you may proceed to make such explanations as you desire in reference to the Pacific coast situation.

Mr. HITCHCOCK. In his memorandum Assistant Superintendent Hall says:

On the Pacific coast, from Seattle on the north to San Diego on the south, the recognized wage for manual labor is \$3 a day, while skilled labor commands from \$4 to \$10 a day. The salaries paid by the Post-Office Department have not increased during the last four years, and as a result of the increased cost of living we have found it exceedingly difficult to secure competent clerks at the salaries allowed by the Department. Take San Francisco for example: A man applying for work in a business house or an office who would agree to render service for an annual salary of \$600 would be looked upon with suspicion. Clerks in any line of business command a salary from \$75 to \$150 a month, and the result has been that we have found it practically impossible in San Francisco, Portland, Seattle, and Spokane, to say nothing of the Nevada country, to persuade competent young men to take the civil-service examination and become eligible for post-office appointment. In San Francisco six examinations were held from August 1 to December 1, 1906, resulting in the securing of but 16 eligibles. Upon being notified of appointment, but 20 per cent of these eligibles were willing to accept the positions offered them. It has been necessary, therefore, to secure temporary clerks from the outside upon the authorization of compensation at the rate of \$800 per annum, an increase of \$200 over the usual salary paid beginners. I can cite many instances in our Pacific coast States where old employees drawing from \$1,000 to \$1,500 per annum salary have resigned their positions in order to better themselves financially in other employment. On the coast the post-office serves as a training school in which to educate young men for business life. Many business men have become aware of this and it is no uncommon occurrence to have a bank president or a manager of some large business watch our clerks and pick out from their number those best suited for their needs. They are in a position to pay better salaries than the Department, besides offering other inducements, such as better hours and a sure advance in salary should they prove competent.

We found it necessary to depart from our usual rule in the case of San Francisco when making allowances recently for the appointment of additional clerks. We were unable to procure them there under existing conditions at \$600 per annum, and we therefore authorized the appointments at \$800.

The CHAIRMAN. Do you regard those conditions as permanent, or entirely temporary?

Mr. HITCHCOCK. In San Francisco the conditions are to a certain extent abnormal, but similar conditions, although not quite so extreme, are occurring in the other cities of the Pacific coast as far north as Seattle.

Mr. SNAPP. They have also occurred in Chicago very recently, have they not?

Mr. HITCHCOCK. Yes; there are similar conditions in Chicago, though possibly not quite so bad as on the coast.

Mr. SNAPP. It seems to me that at the last civil-service examination there, held recently, only about 20 per cent of the number required took the examination.

Mr. HITCHCOCK. Yes; that is the fact; and it has been exceedingly difficult there to get the right kind of men, the postmaster tells me, to accept positions in the post-office.

Mr. SPERRY. Is there any one section of the country more than another that is being set back by the condition of things you describe in the offices in relation to clerks?

Mr. HITCHCOCK. The distress seems to be pretty generally distributed, although as I have just said, the conditions are somewhat worse in the Pacific coast region than anywhere else.

Mr. SPERRY. Take it, now, in my own State. I know of one office where they are doing to-day eight times the business that they formerly did, and I think they have only two additional carriers. It is impossible for them to get the men at the salaries now paid, and that is what is putting us into great trouble. I hardly have a mail but what I have this protest from my own State and from New England generally. That is why I asked if this is general throughout the United States.

The CHAIRMAN. You started awhile ago to make some suggestion as to the need of additional clerical employment during the remainder of the present fiscal year. Will you continue that and state to the committee what that total number will probably be?

Mr. HITCHCOCK. In replying to a question Mr. Stafford asked me, I said that I believed it would be necessary to ask for about 300 additional clerks for the Pacific coast region.

The CHAIRMAN. The total number of additional clerks recommended for the next fiscal year is approximately 1,400. Do you mean that you would increase that to 1,700, and make 300 available for the remainder of this year? Is that your explanation?

Mr. HITCHCOCK. When I made the estimate for the coming fiscal year I did not anticipate the necessity of asking for a large increase to meet unusual conditions before the end of the current year. I am not sure that it would be safe to appoint 300 additional clerks between now and the 1st of July and count upon the number asked for in the estimate for next year to carry the service through to the end of that year. I am inclined to think it would be wise to increase that estimate somewhat if we appropriate for 300 additional clerks to be appointed before the 1st of July next.

The CHAIRMAN. What can you say to the committee as to the number of clerks that ought to be provided for for the next fiscal year, and what number, if any, to be available during the remainder of the present year?

Mr. HITCHCOCK. Mr. Chairman, these extraordinary conditions on

the Pacific coast have only just come to my attention. I did not realize that the situation there was so bad as has been represented to the Department within the last few weeks.

The CHAIRMAN. And you expect to have fuller information in a short time?

Mr. HITCHCOCK. I expect to have fuller information in a few days. I sent immediately for our assistant superintendent for the Pacific Coast States. He arrived a day or two ago, just as the hearings were beginning. I did not have time to go into that question with him before the hearings, except in a general way. In saying, therefore, that approximately 300 clerks will be required to meet the conditions on the coast, I do not wish to commit the Department to that estimate. I want a little more time, in order to go into the matter more carefully, before submitting a definite estimate.

The CHAIRMAN. How soon could you advise the committee as to that matter?

Mr. HITCHCOCK. After the hearings are over I shall be able in a day or two to reach some definite conclusion.

The CHAIRMAN. I suggest, then, that you advise the committee as to it by letter.

Mr. HITCHCOCK. I did not intend to bring this matter up at the hearing. My general arguments are necessarily based on the conditions that existed throughout the country before this matter came to my attention.

Mr. SPERRY. What would you do with offices that need more clerks, but have no eligibles on the waiting list under the civil-service rules?

Mr. HITCHCOCK. Under the civil-service law, when such a condition exists, it is permissible to appoint without reference to civil-service examinations; and of course that would have to be done. It would be necessary to employ temporary clerks to tide over the emergency.

Mr. SPERRY. What salary would you pay those clerks?

Mr. HITCHCOCK. The practice is to pay them at the rate of \$600 a year.

Mr. SPERRY. You would not find many that would accept the places now at \$600?

Mr. HITCHCOCK. I am afraid that your statement is correct as to that. We have great difficulty in inducing temporary clerks to serve for that compensation. That is why it is so important to prescribe definite promotions after a reasonable length of service. Men who take temporary places, knowing that the work will end shortly, consider only the immediate wage, but men who are seriously thinking of entering the service as permanent employees look forward to what they will obtain in the years to come. If they can be assured that after serving satisfactorily for a year their compensation will be increased to \$800, they will be willing to serve for \$600 in the meantime. That is why I favor so strongly the plan of putting on the statute books some definite legislation that will stand there, as I said before, as a positive assurance to these men that they will draw adequate compensation within a reasonable time.

Mr. SPERRY. I do not think you will be judged insane in making that remark.

Mr. SNAPP. In the bill before me, General, I notice verbal changes in each class of clerks at first and second class post-offices. For

instance, in the \$3,200 class, it reads, "Superintendents, eight." Do you recommend the change as indicated here?

The CHAIRMAN. What page are you reading from?

Mr. SNAPP. Page 7, leaving out the words "of delivery, superintendents of mails, superintendents of money order, and superintendents of registry." If so, what is the purpose of the change?

The CHAIRMAN. If you will turn to page 19 of the First Assistant Postmaster-General's report, you will find a copy of the bill which he submits, embodying his recommendations, which includes redesignations of these offices; and the bill is made to conform with those recommendations, because they are the recommendations of the Department. Mr. Snapp's inquiry is as to your explanation of that particular change of designation.

Mr. HITCHCOCK. If I understand you correctly, Mr. Snapp, you ask why I omit the more specific titles?

Mr. SNAPP. Yes.

Mr. HITCHCOCK. And substitute the general title of "superintendents?"

Mr. SNAPP. Yes; what is the purpose of that?

Mr. HITCHCOCK. Because it seemed to me that the specific titles were unnecessary, and in framing the draft of the new bill I wished to eliminate everything that appeared to be unnecessary.

The CHAIRMAN. Are there any superintendents other than superintendents of delivery, money order, and registry?

Mr. HITCHCOCK. No, sir; except superintendents of stations.

The CHAIRMAN. Then by the elimination of those specific designations you would not enlarge the number of superintendents?

Mr. HITCHCOCK. The number of superintendents would not be increased.

Mr. SNAPP. Is it for the purpose of making these employees interchangeable in these different classes?

Mr. HITCHCOCK. It would, of course, make that possible.

The CHAIRMAN. It is possible now, is it not, to have them interchangeable in the same grade?

Mr. HITCHCOCK. It is possible now, and there would be no advantage in omitting the specific designations on that ground. Nothing is to be gained, on the other hand, by putting in the specific designations, because the appropriation as now made permits interchanging.

Mr. SNAPP. I know; but is it not a fact that it is only in these appropriation bills that they are styled "superintendents of delivery" and "superintendents of money order?"

The CHAIRMAN. There is no other law.

Mr. SNAPP. There is no other law with such a designation.

Mr. HITCHCOCK. The classification act prescribes all that, Mr. Snapp.

The CHAIRMAN. But the appropriation bill passed at each year is the only classification act known to the law. There is not any continuing statute classifying these employees.

Mr. HITCHCOCK. I refer to the classification act of 1883, which is still in effect, as I understand it.

Mr. SNAPP. Is not that more of a limitation act which provides that the salaries of certain officers shall not exceed certain amounts?

The CHAIRMAN. That is quite true as to the superintendents of mail.

Mr. HITCHCOCK. It prescribes the exact titles and the amounts of salary to be paid. That is, it fixes a minimum and a maximum salary for all classes of superintendents.

Mr. STAFFORD. It also authorizes the Postmaster-General to classify the various officials under the designations as carried.

Mr. HITCHCOCK. Yes; that is true.

Mr. STAFFORD. In the language here before me—

the Postmaster-General is hereby authorized to classify and fix the salaries of the clerks and employees attached to first-class post-offices as herein provided.

Then it goes on and designates the various officials.

Mr. SNAPP. That will be good until Congress classifies them, as has been done in the appropriation bills.

Mr. STAFFORD. Yes.

Mr. HITCHCOCK. Of course, if you think it best to give the specific titles, it will require the repetition of these titles all the way through the bill.

Mr. SNAPP. Would it embarrass the Department at all in administering this appropriation?

Mr. HITCHCOCK. It would not embarrass the Department at all in administering the appropriation, and it would not embarrass it if they were omitted. It would be merely an advantage in the way of simplicity to cut out these superfluous terms. They do not seem to answer any purpose.

The CHAIRMAN. If I am not interrupting, do you have in mind, Mr. Hitchcock, that in the event the bill which is made a part of your report, at pages 19 and 20 of your report, should become a law, wherein the various designations of positions above the grade of \$1,200 and the various classifications of clerks and carriers at \$1,200 and below appear, that even after that should become a law there would still appear in the annual appropriation bill these various paragraphs of designations, with the amount to be appropriated each year?

Mr. HITCHCOCK. Certainly.

The CHAIRMAN. So that the appropriation bills would continue to contain a similar arrangement to that which now obtains, except that the designations would be omitted where they had been omitted in the permanent statute?

Mr. HITCHCOCK. That is exactly what would happen, as I understand it.

The CHAIRMAN. And that no greater sum could be used than what Congress each year appropriated?

Mr. HITCHCOCK. It would remain, of course, within the power of Congress to regulate that just as it now regulates it.

The CHAIRMAN. Yes.

Mr. SNAPP. In the last clause, on page 7, I notice the word "book-keepers," which appears to be new in that clause.

The CHAIRMAN. It is simply pluralized. It is singular in the old law.

Mr. HITCHCOCK. That is simply a matter of making it plural.

Mr. SNAPP. Is it for the purpose of increasing the number of book-keepers at that salary, \$2,400 each?

Mr. HITCHCOCK. No, Mr. Snapp: there was no purpose in plural-

izing that word except to make it conform to the other designations, which are in the plural form.

Mr. STAFFORD. It is new, however. Mr. Snapp, in the second clause, on page 8, where no provision has been carried heretofore for bookkeepers in the grade of \$2.100 each.

Mr. HITCHCOCK. Yes; I see.

Mr. STAFFORD. Your purpose in inserting the title "bookkeepers" in the item on page 8, in the \$2,100 class, is to provide for the promotion of some bookkeepers that are found in the following item having salaries of \$2,000 each?

Mr. HITCHCOCK. No, sir; the purpose is to simplify the classification as far as it relates to designations in higher grades, from the highest grades, carrying a salary of \$3,200, to the \$1,300 grade. You notice that we omit a number of designations. "Bookkeepers" is one of the designations that we retain. One designation we omit is that of "finance clerk." It is hard to say just what a finance clerk is or what his work is. Sometimes he is a bookkeeper; sometimes he may serve as a cashier. We have endeavored to retain enough designations to cover every possible line of employment in these grades without duplicating.

The CHAIRMAN. And by reference to the second paragraph of your proposed statute, appearing on page 19 of your report, you will observe the various designations which you contemplate.

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. And that list of designations omits some that are now used in the law; but when you come to the preparation of the post-office appropriation bill for an annual allowance you carry those various designations through each of the several items above the \$1,200 grade.

Mr. HITCHCOCK. That is it exactly.

The CHAIRMAN. So that it merely makes the appropriation conform in its language to the permanent statute, and then the Department will take the amount which Congress appropriates and expend it?

Mr. HITCHCOCK. Precisely; it leaves it in your hands, as hitherto.

The CHAIRMAN. Yes. In that connection I want to call your attention to the matter of substitutes for clerks, and temporary clerks.

Mr. HITCHCOCK. Yes.

The CHAIRMAN. They would be omitted in the future if your recommendation for the classification should obtain, and they would be known as auxiliaries. Is that correct?

Mr. HITCHCOCK. No, sir.

The CHAIRMAN. Where is there any provision in your proposed statute for either substitute clerks or temporary clerks?

Mr. HITCHCOCK. On page 19 we provide for the auxiliary employees, and at the top of page 20 we provide for the substitutes. We simply make it possible for the Department to employ the auxiliaries after the manner described in the report, whenever it is deemed advisable. It is not mandatory.

The CHAIRMAN. How are substitute clerks now employed?

Mr. HITCHCOCK. There are two kinds of substitutes for clerks. One is the substitute serving for a clerk who is absent without pay, in which case the substitute is paid at the rate of compensation received by the absent clerk, up to \$800; the other is the substitute who

serves for a clerk away on a vacation with pay. In this case the substitute is paid at the rate of \$600 a year. In addition to these two classes of substitutes there are temporary clerks, who are paid at the rate of \$600, as a rule. In San Francisco, as I have just stated, we were obliged to increase the rate for temporary clerks to \$800 in order to get the men; but that was an exceptional case.

The CHAIRMAN. You recommend an increase of \$10,000, making the total appropriation for substitute clerks \$110,000 for next year?

Mr. HITCHCOCK. Yes, sir; in the estimates submitted.

The CHAIRMAN. Then you contemplate no change in the method of employing and paying substitute clerks, except that substitute clerks may be used as auxiliary clerks?

Mr. HITCHCOCK. We recommend a decided change in the method of paying.

The CHAIRMAN. Of paying substitute clerks?

Mr. HITCHCOCK. Of paying substitute clerks.

The CHAIRMAN. What is that recommendation?

Mr. HITCHCOCK. We recommend that they be paid at a rate per hour, and we consider it one of the most important recommendations that we have to submit, Mr. Chairman.

The CHAIRMAN. Yes; but the amount of \$110,000 is the amount which you fix as necessary for the next year for substitutes at the rate of the hourly payment, 30 cents.

Mr. HITCHCOCK. Yes, sir.

Mr. STAFFORD. In your recommendation for the creation of a new class, known as auxiliary clerks, do you contemplate the substitutes filling those positions, or do you expect to have an entirely separate class to perform that daily work?

Mr. HITCHCOCK. We expect, as far as we can, to induce substitutes who are now on the rolls to accept that auxiliary employment—to become auxiliary employees.

Mr. STAFFORD. Do you think you will be able to induce those now on the rolls to become daily employees for two hours a day, as you suggest in your report, for the salary of \$3.60 a week, when you are having such great difficulty in getting men for permanent employment at the salary of \$600 a year?

Mr. HITCHCOCK. They are paid at a higher rate for those two hours than the clerks who receive \$600 a year.

Mr. STAFFORD. As I read your report, you said that there were occasions in the busiest hours of the day at the post-offices when auxiliary clerks could be utilized for two hours a day, and that it would be advantageous to have some such clerks to fill the void on those occasions, and that you recommend for that service 30 cents an hour.

Mr. HITCHCOCK. Thirty cents an hour.

Mr. STAFFORD. That would be 60 cents a day, or \$3.60 for the week's work. Do you think that would be sufficient inducement to attract the kind of efficiency or the grade of labor of which you speak, at that low stipend for such a small quantum of work?

Mr. HITCHCOCK. That is merely a rate of compensation, Mr. Stafford.

Mr. STAFFORD. I realize that; but you say they are to be employed on the average of two hours a day. I am taking your recommendation and pointing out the fact that they would only receive \$3.60 if they worked their entire time, as suggested by you, each day.

Mr. HITCHCOCK. Are you aware that clerks are already being employed for brief periods at a less rate of remuneration?

Mr. STAFFORD. I am not.

Mr. HITCHCOCK. Such is the case.

Mr. STAFFORD. I will ask you in what places they are being employed in large numbers at a less compensation, and for what length of time?

Mr. HITCHCOCK. In almost every large city in the United States.

Mr. STAFFORD. Will you kindly specify the length of time that they are employed, and at what offices?

Mr. HITCHCOCK. At nearly all large offices it is the practice to engage such employees for temporary service at a rate of compensation that is less than 30 cents an hour. The present rate is 25 cents an hour.

The CHAIRMAN. About how long do they serve each day?

Mr. HITCHCOCK. Sometimes an hour, sometimes two, sometimes more.

Mr. STAFFORD. And you are having no difficulty in obtaining men to fill those positions under those conditions?

Mr. HITCHCOCK. We are having some difficulty at the present rate of 25 cents, but we are doing it. We are expending the money that you authorized for that purpose.

Mr. STAFFORD. How much will be expended for that peculiar work throughout the country?

Mr. HITCHCOCK. Do you mean under this plan?

Mr. STAFFORD. No; I mean under the plan at present in operation.

Mr. HITCHCOCK. I can not state, offhand, the total amount for the whole country; but I recall that we have allowed for the current fiscal year \$22,000, to be utilized in that way in the city of New York alone.

Mr. STAFFORD. Is that utilized at any special period of the year, when the service is exceptionally pressed with mail, or is it scattered generally throughout the entire year, say during the slack months in the summer?

Mr. HITCHCOCK. It is utilized to a large extent during the periods of the year when the work is heaviest; but nevertheless it is utilized to some extent throughout the year.

Mr. STAFFORD. Are any of the substitutes employed in that character of work?

Mr. HITCHCOCK. Oh, yes; generally they are substitutes.

Mr. STAFFORD. Then this auxiliary help of yours is nothing more than a continuation of what is now in force, but with an increased salary of 5 cents per hour.

Mr. HITCHCOCK. It is more than that, because it requires the steady employment of these men, and is intended to be utilized as a means of training men for permanent employment in the postal service.

Mr. STAFFORD. Would you utilize wherever you could for that employment those on the eligible list for appointment as substitutes or those who had already been designated as substitutes?

Mr. HITCHCOCK. We would be obliged to utilize them, one or the other, because of the civil-service law.

Mr. STAFFORD. Under the present system when you employ a substitute for service, if he is not engaged as a temporary clerk, the substitute will receive the salary for a day's labor, based upon this \$600

rate, whether he is performing a full day's labor of eight hours or whether it is only three or four hours?

Mr. HITCHCOCK. Oh, no; he will be paid for the amount of time he serves.

Mr. STAFFORD. I mean, as at present arranged, when a substitute performs a day's labor. As at present arranged, when a substitute is employed to do work other than that of a temporary clerk, he will receive the pay of a day, based on the \$600 rate?

Mr. HITCHCOCK. Yes.

Mr. STAFFORD. And I believe that one of the reasons that you advance for the creation of this auxiliary class is that these men could be used for only those periods of the day when they are called for?

Mr. HITCHCOCK. If I understand your question correctly, I think you are under a misapprehension as regards the method of employing substitutes. Substitutes may be employed for a part of a day as well as for a full day. We can employ substitutes for an hour, if necessary.

Mr. STAFFORD. Would they be designated as substitutes, or would they be paid out of the appropriation for temporary clerk hire?

Mr. HITCHCOCK. They would be paid as substitutes and receive compensation at the rate of remuneration of the permanent employee, provided the employee was absent without pay. If he was absent with pay, they would be paid at the rate of \$600 a year. The period of employment may be only a fraction of a day, and that is what makes the present system so exceedingly complicated and so burdensome to the service. If anything needs correction, it is this system of substitute service as at present operated.

The CHAIRMAN. You understand, do you, that you are to communicate with us by letter in reference to this Pacific coast situation?

Mr. HITCHCOCK. After the hearings are over?

The CHAIRMAN. That is what I mean.

Mr. HITCHCOCK. I hardly think it will be possible for me to get that letter into shape before the hearings terminate.

The CHAIRMAN. That is all right. I mean, you will communicate that at some time in the course of five or six days.

Mr. HITCHCOCK. As soon after the close of the hearings as it is possible for me to reach a conclusion.

The CHAIRMAN. That is, after the close of the hearings with you?

Mr. HITCHCOCK. Yes; as soon as you finish with my part.

The CHAIRMAN. I suggest, then, that the committee pass on to some of the subsequent items, even if later it should be found advisable to return to this subject, in order to make progress.

Mr. HITCHCOCK. I will say, Mr. Chairman, that I have endeavored to explain, as fully as possible, in my annual report, this question of substitute and auxiliary service. You will find my comments on pages 14 to 17 of the report.

The CHAIRMAN. I want to inquire in reference to some items on page 16 of the skeleton bill, if there is no objection to our leaving the subject of clerk hire. You make a recommendation for a decrease in the appropriation for the separation of mail in third and fourth class offices.

Mr. HITCHCOCK. Yes, sir.

Mr. HITCHCOCK. Are you aware that clerks are already being employed for brief periods at a less rate of remuneration?

Mr. STAFFORD. I am not.

Mr. HITCHCOCK. Such is the case.

Mr. STAFFORD. I will ask you in what places they are being employed in large numbers at a less compensation, and for what length of time?

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rate, whether he is performing a full day's labor of eight hours or whether it is only three or four hours?

Mr. HITCHCOCK. Oh, no; he will be paid for the amount of time he serves.

Mr. STAFFORD. I mean, as at present arranged, when a substitute performs a day's labor. As at present arranged, when a substitute is employed to do work other than that of a temporary clerk, he will receive the pay of a day, based on the \$600 rate?

Mr. HITCHCOCK. Yes.

Mr. STAFFORD. And I believe that one of the reasons that you advance for the creation of this auxiliary class is that these men could be used for only those periods of the day when they are called for?

Mr. HITCHCOCK. If I understand your question correctly, I think you are under a misapprehension as regards the method of employing substitutes. Substitutes may be employed for a part of a day as well as for a full day. We can employ substitutes for an hour, if necessary.

Mr. STAFFORD. Would they be designated as substitutes, or would they be paid out of the appropriation for temporary clerk hire?

Mr. HITCHCOCK. They would be paid as substitutes and receive compensation at the rate of remuneration of the permanent employee, provided the employee was absent without pay. If he was absent with pay, they would be paid at the rate of \$600 a year. The period of employment may be only a fraction of a day, and that is what makes the present system so exceedingly complicated and so burdensome to the service. If anything needs correction, it is this system of substitute service as at present operated.

The CHAIRMAN. You understand, do you, that you are to communicate with us by letter in reference to this Pacific coast situation?

Mr. HITCHCOCK. After the hearings are over?

The CHAIRMAN. That is what I mean.

Mr. HITCHCOCK. I hardly think it will be possible for me to get that letter into shape before the hearings terminate.

The CHAIRMAN. That is all right. I mean, you will communicate that at some time in the course of five or six days.

Mr. HITCHCOCK. As soon after the close of the hearings as it is possible for me to reach a conclusion.

The CHAIRMAN. That is, after the close of the hearings with you?

Mr. HITCHCOCK. Yes; as soon as you finish with my part.

The CHAIRMAN. I suggest, then, that the committee pass on to some of the subsequent items, even if later it should be found advisable to return to this subject, in order to make progress.

Mr. HITCHCOCK. I will say, Mr. Chairman, that I have endeavored to explain, as fully as possible, in my annual report, this question of substitute and auxiliary service. You will find my comments on pages 14 to 17 of the report.

The CHAIRMAN. I want to inquire in reference to some items on page 16 of the skeleton bill, if there is no objection to our leaving the subject of clerk hire. You make a recommendation for a decrease in the appropriation for the separation of mail in third and fourth class offices.

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. What occasions the condition which permits of a decrease? Are they discontinuing the smaller offices?

Mr. HITCHCOCK. That is due to the extension of the rural delivery service and the dropping out of star routes.

Mr. STAFFORD. Going back to the item just passed, I would like to ask, if we do not adopt your idea for auxiliary clerk service, whether you wish to have us omit the proviso as found on the top of page 16, which gives authorization to the Department for employing temporary clerks out of that item at the rate of 25 cents an hour?

Mr. HITCHCOCK. If the chairman will permit me, I will submit to the committee a complete draft of the appropriation measure that will be necessary to carry out this scheme of appropriations. The draft will show very plainly what will be required if the classification bill is enacted.

The CHAIRMAN. For the information of the committee, I think it will be well to submit that. If you have it in a form that you can leave with the stenographer, it will be put in at this point as a part of the hearings.

Mr. HITCHCOCK. This could be printed as a part of the hearings. It would simplify greatly the matter of adjusting the various items in the appropriation.

The CHAIRMAN. If I understand it, this paper that you are now about to submit is your recommendation for the appropriation in the event your recommendation for the permanent statute should not be accepted?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. That is entirely proper.

Mr. STAFFORD. Then that will answer my question as to whether you wish to continue that proviso or not.

The CHAIRMAN. Exactly.

Mr. HITCHCOCK. It will make it unnecessary to ask a series of questions of that kind, you see.

(The paper submitted by Mr. Hitchcock at this point is as follows:)

For compensation to officers and employees, other than postmasters, assistant postmasters, and carriers, at first and second class post-offices, including auxiliary, substitute, and temporary employees, \$25,225,000, as follows:

Superintendents, 8, at not exceeding \$3,200 each.

Auditors, 2, at not exceeding \$3,000 each.

Superintendents, 23, at not exceeding \$2,700 each.

Cashiers and assistant superintendents, 19, at not exceeding \$2,600 each.

Superintendents, 6, at not exceeding \$2,500 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, private secretaries, and superintendents, 36, at not exceeding \$2,400 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, and superintendents, 23, at not exceeding \$2,200 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, and superintendents, 21, at not exceeding \$2,100 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, and superintendents, 85, at not exceeding \$2,000 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, private secretaries, and superintendents, 60, at not exceeding \$1,800 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, private secretaries, and superintendents, 118, at not exceeding \$1,700 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, private secretaries, superintendents, foremen, and stenographers, 122, at not exceeding \$1,500 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, private secretaries, superintendents, foremen, and stenographers, 122, at not exceeding \$1,500 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, bookkeepers, cashiers, private secretaries, superintendents, foremen, assistant foremen, and stenographers, 369, at not exceeding \$1,400 each.

Assistant auditors, assistant cashiers, assistant superintendents, auditors, cashiers, bookkeepers, private secretaries, superintendents, foremen, assistant foremen, and stenographers, 606, at not exceeding \$1,300 each.

Clerks of the sixth grade, 2,003.

Clerks of the fifth grade, 2,196.

Clerks of the first, second, third, and fourth grades, 23,000.

Mechanics, printers, and skilled laborers, at from \$900 to not exceeding \$1,200, 50.

Laborers, messengers, and watchmen, at from \$400 to not exceeding \$900 each, 1,200.

Auxiliary, substitute, and temporary employees, in such numbers as the service may require, at the rate of 30 cents an hour.

For the maintenance of contract stations, at not exceeding \$1,000 each, \$750,000: *Provided*, That not more than \$150,000 shall be expended for the maintenance of such stations in the grades above \$500.

UNUSUAL CONDITIONS.

The CHAIRMAN. In reference to the unusual conditions at second, third, and fourth class offices, the appropriation of \$100,000 you ask for has now been provided by current law. Can you tell the committee about what proportion of that yet remains unexpended?

Mr. HITCHCOCK. About \$30,000, I think; but I can give you the exact figures in a moment. (After looking among papers.) It is approximately \$30,000. I have a complete statement among my papers, and if you wish I can give the exact figures later. I can not place my hands on the statement just at this moment.

The CHAIRMAN. That is sufficient, I think. At all events, the expenditures thus far made indicate that \$100,000 will probably be consumed?

Mr. HITCHCOCK. Before the end of the current fiscal year practically all of the appropriation will be utilized.

If you will permit me, before we leave this item for unusual conditions at second, third, and fourth class offices, I would like to suggest that the appropriation be made to cover also offices of the first class. The conditions that arose last spring at San Francisco, because of the earthquake, could not be met by this appropriation. A great emergency came unexpectedly, and we had no money available with which to meet that emergency. It is not probable that the appropriation would be utilized often at offices of the first class, and doubtless it would be possible to meet the emergency when it came without increasing the amount of the appropriation. It seems to me it would be wise to extend this appropriation to cover all classes of post-offices.

The CHAIRMAN. But you do have certain funds, like the fund covering temporary clerk hire, which are available at first and second class offices, and not available at offices of the third and fourth class?

Mr. HITCHCOCK. That is true; but that temporary clerk hire is subject to restrictions like the regular clerk hire.

The CHAIRMAN. You are not obliged to go to the civil-service list to employ a temporary clerk.

Mr. HITCHCOCK. I mean as regards the amount of compensation.

The CHAIRMAN. That is true enough.

Mr. STAFFORD. It does not provide for quarters in the case of the demolition of post-offices, such as at San Francisco, or the like. There would have to be some appropriation, I suppose, Mr. Hitchcock, to meet those conditions?

Mr. HITCHCOCK. I do not ask for an increase in the amount, but I think it would be wise to extend it to cover all post-offices. I see no reason why we should draw a line between the second class and the first class offices.

The CHAIRMAN. For unusual conditions?

Mr. HITCHCOCK. For unusual conditions. If there is an emergency in a first-class office it is generally a greater emergency than that in a second-class office, and this appropriation is intended to meet emergencies. It is a comparatively small appropriation for the whole country—only \$100,000. I think it would be wise to broaden its application.

Mr. SNAPP. Mr. Chairman, that provision at the top of page 16 only refers to temporary clerk hire that the postmaster is allowed to employ. There is no limitation on the amount that should be paid for temporary clerk hire that may be employed by the Department itself.

Mr. HITCHCOCK. That appropriation limits the compensation to 25 cents an hour, Mr. Snapp.

Mr. SNAPP. It limits to 25 cents an hour that which postmasters are allowed to employ, but not what the Department might do in another way.

Mr. HITCHCOCK. I am inclined to think that the Comptroller would rule that it was the intent of that appropriation to limit the compensation to 25 cents an hour.

Mr. SNAPP. Then I think he would be wrong, and it is not to be presumed that he would be wrong. A limitation of that kind must be strictly construed, and the language is plain.

Mr. HITCHCOCK. It seems to me, Mr. Snapp, that if that were not the intent of the appropriation it might be subject to abuse. It would not be restricted as Congress usually restricts its appropriations.

Mr. SNAPP. We may have made a mistake in this, but a good many of these appropriations are liable to abuse.

Mr. HITCHCOCK. In the bill I propose the rate of compensation per hour is purposely limited. It seems to me that Congress would expect and require such a limitation. It is very plain that under the proposed measure not more than 30 cents an hour could be paid.

Mr. SNAPP. If that was the intention, it has not been expressed in those words.

Mr. HITCHCOCK. I rather think that the language is somewhat ambiguous in the present appropriation.

CLERK HIRE AT THIRD-CLASS OFFICES.

Mr. SNAPP. I do not think there is any doubt of it.

The CHAIRMAN. In reference to the appropriation to cover clerical services at third-class offices you ask for a 20 per cent increase, raising the appropriation from \$750,000 to \$900,000. Is that for the purpose of extending the allotment to additional offices or increasing the allotments to offices where it is already utilized?

Mr. HITCHCOCK. For both purposes, Mr. Chairman.

The CHAIRMAN. Can you indicate the relative proportions of the

increase—what proportion of the increase is intended to enlarge the allowances now allotted and what proportion to be allotted to entirely new offices?

Mr. HITCHCOCK. You will notice that on page 20 of my report I suggest that the maximum amount that can be allotted to the larger third-class offices be increased. If that authority is granted, as I hope will be the case, it will enable us to make a desirable increase in the allowances for such offices.

The CHAIRMAN. Have you at hand the scale of allotment which you follow?

Mr. HITCHCOCK. I have not the detailed scale with me. The general scale is provided by law.

The CHAIRMAN. That is true enough; that is the maximum.

Mr. HITCHCOCK. The chairman means the detailed scale that we follow in the Department in making allowances.

The CHAIRMAN. I do not mean what you have allotted to each particular office.

Mr. HITCHCOCK. You mean our plan of allotment?

The CHAIRMAN. I mean your plan of allotment.

Mr. HITCHCOCK. No; I have not that with me.

The CHAIRMAN. Do you allot the maximum at some offices and not the maximum at others under the scale authorized by the statute?

Mr. HITCHCOCK. We rarely allot the maximum except at the larger offices. There it is necessary. It is impossible to allot the maximum except in a small percentage of the allowances, because the appropriation would not stand it.

The CHAIRMAN. I understand. Still, you could take the appropriation of \$750,000 now authorized by the statute and allot the maximum at a number of offices and allot nothing to the others. That would be possible under the law?

Mr. HITCHCOCK. Oh, yes; that would be possible under the law.

The CHAIRMAN. But you do make allotment to each of the several grades suggested by the statute? You make some allotment to each of the grades?

Mr. HITCHCOCK. We make allotments in accordance with a definite scale.

The CHAIRMAN. You have a definite scale that you follow?

Mr. HITCHCOCK. We have a definite scale that we follow in making these allowances.

Mr. SNAPP. Would your objection to this be met by increasing by 20 per cent the limitation in the provision of this clause—that is, increase the \$200 that may be allowed where the salary of the postmaster is at \$1,000 to \$240—and so on through the clause?

Mr. HITCHCOCK. Our recommendation did not have in view a change of that kind.

Mr. SNAPP. No; I know it does not. It makes it a gross appropriation that can be used by the Department in any way it sees fit.

Mr. HITCHCOCK. Oh, no; we simply increase the amount that can be allotted to the larger third-class offices. It will permit the allowances to scale up more rapidly as the offices increase in size, and will make the transition to second-class offices less abrupt.

Mr. SNAPP. As I read this clause on page 16 of this bill, it strikes out the provision entirely, thereby leaving the appropriation at \$750,000, to be apportioned in any way the Department sees fit among these third-class offices.

Mr. HITCHCOCK. Oh, I now understand what you mean. That omission was not intended.

The CHAIRMAN. That grows out of the fact that the estimates that come up are money estimates. I do not understand that you—

Mr. HITCHCOCK. We did not mean to make any such recommendation as that. I did not observe those brackets.

The CHAIRMAN. It is simply not recommended. They are not recommending the discontinuance of it. Even if the various limitations suggested by Mr. Snapp, from \$200 to \$400 a year, were increased by 20 per cent each, or even if part were increased 20 per cent, it would still necessitate, according to your view of the conditions, an increase of the total amount appropriated.

Mr. HITCHCOCK. Our recommendation has reference simply to the offices where the salary is \$1,800 or \$1,900. In such offices we recommend that the maximum be increased to \$600, instead of limiting it, as at present, to \$400. In those larger third-class offices an increased allowance should be possible.

The CHAIRMAN. You recommend an additional division, above the \$1,600 compensation, for postmasters?

Mr. HITCHCOCK. Yes. We suggest that in the two upper classes the limit be made \$600 instead of \$400.

The CHAIRMAN. Then if there should be a new division, so as to make the allowance \$400 where the salary of the postmaster is \$1,600 or \$1,700, and then "nor in excess of \$600 where the salary of the postmaster is \$1,800 or \$1,900."

Mr. HITCHCOCK. That is exactly what we suggest.

The CHAIRMAN. Then, if you increase the appropriation from \$750,000 to \$900,000, you do not mean to say that you would utilize that increase of 20 per cent entirely in that upper grade?

Mr. HITCHCOCK. Oh, by no means. The appropriation must provide for the new third-class offices.

The CHAIRMAN. Yes.

Mr. SNAPP. And those not already taken care of?

Mr. HITCHCOCK. And those not already taken care of—certainly. Ninety offices were advanced to the third class on October 1, and 200 were advanced on the 1st of January.

Mr. STAFFORD. Two hundred of what class offices?

Mr. HITCHCOCK. Two hundred fourth-class offices were advanced to the third class. That is to say, since the opening of this year, 290 fourth-class offices have been advanced into the third class, and the increase in the appropriation must provide for those new third-class offices as well as cover any increase that seems necessary in the allowance to existing third-class offices to meet the growth of business at such offices.

The CHAIRMAN. How many third-class offices are there now?

Mr. HITCHCOCK. On the 1st of July last there were 4,215. To that should be added the 290 just mentioned.

The CHAIRMAN. About how many, then, are there altogether?

Mr. HITCHCOCK. That would make 4,505 at present.

The CHAIRMAN. How many third-class offices have allowances under this appropriation?

Mr. HITCHCOCK. Practically all of the third-class offices have allowances.

The CHAIRMAN. Could you indicate approximately how many third-class offices have no allowance?

Mr. HITCHCOCK. Only such offices, as a rule, as are omitted through the failure of the postmaster to make application for allowances.

The CHAIRMAN. Do you mean to say that the allowance is made absolutely where the application is made, if you have any money to allot?

Mr. HITCHCOCK. The money is allotted pro rata to all third-class offices. Of course the amount granted to small offices is less than that given large offices.

The CHAIRMAN. What is the smallest allowance?

Mr. HITCHCOCK. We sometimes allow very small sums—less than \$100 in some cases.

The CHAIRMAN. A little less than 50 per cent of the maximum provided for that grade?

Mr. HITCHCOCK. Yes, sir. As soon as an office becomes third class it is entitled to a share of that appropriation. Usually the postmaster makes application, and we invariably grant him something, because that was the purpose of the law, as we construe it.

Mr. STAFFORD. The purpose of the law, as understood by some committee members, was to provide for exceptional conditions at third-class post-offices where the mail required more clerical services than at others, and that we should vest in the Department discretion to allot the appropriation, not evenly to offices of all of these various grades, but that they should use their discretion to meet pressing mail conditions.

Mr. HITCHCOCK. I understood you to say this morning that the purpose originally was to provide for all clerical assistance through such an appropriation, and not to require the postmaster to utilize his own salary in that manner.

The CHAIRMAN. That is, as far as the services were necessary; but I do not understand that the law originally contemplated a distribution to all third-class offices. It was only where the exigencies of the conditions required some assistance. There are offices that have just immediately ripened into the third class from the fourth, where possibly there is no occasion for an additional allowance.

Mr. HITCHCOCK. I doubt whether there are any offices handling the amount of business transacted by a post-office of the third class that do not require some clerical assistance. If an allowance is not granted the postmaster must provide that assistance out of his own salary.

Mr. SNAPP. I should construe that exactly as the Department has, as contemplating an allowance to all third-class offices.

The CHAIRMAN. At all events, that is the policy that has been pursued?

Mr. HITCHCOCK. Yes; that is the policy that has been pursued.

Mr. SNAPP. That provision limiting them to specific cases to my mind clearly indicates an intention that all third-class offices shall profit by this appropriation.

Mr. STAFFORD. It was the original intention of the committee, however, as I understand it, to only extend it to those offices where there were special exigencies.

Mr. SNAPP. Was that provision in it?

Mr. STAFFORD. No; it was in the same language as that in which it is now carried.

Mr. HITCHCOCK. This plan of increasing the maximum amount for the larger third-class offices is in harmony with the plan of increasing the compensation of clerks at the smaller second-class offices.

Mr. STAFFORD. Yet if you allotted \$600 to a third-class office of these higher grades, where the salary is \$1,800 or \$1,900, you would not require that it should be used for the purpose of paying only one clerk?

Mr. HITCHCOCK. That, of course, is a matter to be decided by the postmaster; the only requirement of the Department being efficient service. The question of clerk hire at third-class offices is discussed on page 20 of the report, and I point out there more specifically the reasons why it seems desirable to make the amendment suggested.

Mr. FINLEY. Before you leave that item, "allowances for third-class offices for clerical services," the sum is put down here as \$900,000. What would that give you by way of increase at the various offices where such allowances are made, if any; or would it give you anything?

Mr. HITCHCOCK. In order to obtain that figure it is necessary to deduct the number of new third-class offices.

Mr. FINLEY. I am sure of that.

Mr. HITCHCOCK. The purpose is to use the increase quite largely in meeting the requirements of those offices. I can not say offhand just what the percentage of increase would be.

Mr. FINLEY. Then there is practically no increase in this for the offices where allowances are now made?

Mr. HITCHCOCK. On the contrary, we could grant considerable increases to existing third-class offices, particularly to the larger ones; but such increases would comprise a rather small percentage. I should think, of the total amount, because of the large number of new third-class offices that must be provided for.

Mr. FINLEY. Do you not receive a great many complaints about the inadequate compensation?

Mr. HITCHCOCK. We receive numerous complaints from third-class offices about the inadequate allowance for clerk hire and also about the inadequate allowances for rent, fuel, and light. I believe we receive more complaints from postmasters of the third class regarding the inadequacy of these allowances than for any other cause.

Mr. FINLEY. I see that you make an estimate here for \$900,000; that is an increase of \$150,000?

Mr. HITCHCOCK. Yes; that is true.

Mr. FINLEY. That would allow a very small percentage of increase, then, to offices where allowances are now made, taking into consideration the new offices where allowances would be made?

Mr. HITCHCOCK. It would not allow a large increase. That is plain on the face of the figures.

Mr. FINLEY. It would require something like \$1,250,000, would it not, to make much of an increase? In the event that the allowance was \$1,250,000, how much would that be to each office by way of increase?

Mr. HITCHCOCK. If the sum was apportioned equally?

Mr. FINLEY. I mean if it were apportioned in the usual way, some offices getting more and some offices less?

Mr. HITCHCOCK. I have just stated the number of offices. The

average could be computed by dividing the total amount by that number, but of course the appropriation is not allotted in that way. It is allotted in accordance with the scale.

Mr. FINLEY. I understand you to say that.

The CHAIRMAN. I presume Mr. Finley really means how much would be required if the maximum allowance were given to each of the third-class offices.

Mr. FINLEY. Yes; and then how much \$1,250,000 would give to them on that basis.

The CHAIRMAN. By allowing them at the rate of the maximum?

Mr. FINLEY. Yes. I presume that would take quite a little calculation.

Mr. HITCHCOCK. We should have to figure that out.

Mr. FINLEY. What would the calculation you have made give?

Mr. HITCHCOCK. About \$33.30.

Mr. HEDGE. Mr. Finley, if you divide \$150,000 by 4,505 you can get at it.

Mr. FINLEY. So the increase, then, would be about \$33 to each office?

Mr. HITCHCOCK. Yes; if apportioned equally.

RENT, LIGHT, AND FUEL.

The CHAIRMAN. In your recommendation for the appropriation for rent, light, and fuel, Mr. Hitchcock, you have in your report suggested some increase of the limitation there with reference to third-class offices?

Mr. HITCHCOCK. Yes, sir; I recommend an increase.

The CHAIRMAN. You increase the limit of third-class offices \$500 for rent, and \$100 for light and fuel?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. Does your recommendation of an increase of \$150,000 contemplate that?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. If the increased limitation for rent at \$500 and fuel at \$100, which would be equivalent to \$600 for rent, light, and fuel, at third-class offices, should not be made—that is, if the limitation were not raised from \$400, the present law, to \$600—you would not need the \$150,000 increase, would you?

Mr. HITCHCOCK. The purpose of increasing this maximum is to make it possible for the Department to utilize this appropriation as it should be utilized in exceptional cases.

The CHAIRMAN. But what I mean is this: The limit of allowance now authorized by law for both rent and fuel is \$480?

Mr. HITCHCOCK. Yes.

The CHAIRMAN. And you suggest that as to third-class offices that limit be fixed at \$600.

Mr. HITCHCOCK. Yes.

The CHAIRMAN. That is \$120 increase?

Mr. HITCHCOCK. Yes.

The CHAIRMAN. If that limitation were not increased, but the limitation remained as it is now fixed by the law, you would not need all of the \$150,000 for which you have asked, would you?

Mr. SNAPP. It would permit of a reduction, because the increase asked is only 5 per cent, and it is based on \$500 and \$100.

The CHAIRMAN. That is what I am trying to draw out. If it is based on the increase of the limit, then there is——

Mr. HITCHCOCK. Mr. Chairman, whether or not you raise the limit, the Department would ask for that increase in the appropriation.

The CHAIRMAN. Then if the limit should be raised, it would be necessary to appropriate more than the \$150,000 additional, would it not?

Mr. HITCHCOCK. It would not be necessary to appropriate more money. The change proposed would enable the Department, in certain cases where it seems desirable, to pay a little higher rent than we can at present. The appropriation would be allotted in precisely the same way as at present for most of the third-class offices; but now and then we find an office where the existing maximum is too low, and in these exceptional cases it is embarrassing to the service not to be able to pay sufficient rent.

The CHAIRMAN. What do you mean by "exceptional cases?"

Mr. SNAPP. Is it so much an embarrassment to the service as it is an embarrassment and a hardship on the postmasters?

Mr. HITCHCOCK. We consider that an embarrassment to the service. The postmaster is an officer of the service.

The CHAIRMAN. As a matter of fact, Mr. Hitchcock, from what points does the demand for the increase for rent come; from what sections of the country?

Mr. HITCHCOCK. Chiefly from sections of the country where the growth is rapid and where rents are consequently high.

The CHAIRMAN. There is a pretty general demand, is there not?

Mr. HITCHCOCK. There is a very general demand for increased rents.

The CHAIRMAN. Is not a good part of the demand simply based upon the fact that everybody is after more pay of all kinds where the Government is paymaster?

Mr. HITCHCOCK. I do not think the demand is due to that fact, because of the way in which we handle the cases. We generally have some kind of competition.

The CHAIRMAN. This limit was increased not a great while ago, was it not?

Mr. HITCHCOCK. Not since I have been in charge of the Bureau.

Mr. STAFFORD. We increased it two years ago, Mr. Chairman.

The CHAIRMAN. Yes; the limit was increased two years ago.

Mr. GRANDFIELD. Only so far as it applied to fuel and light.

Mr. STAFFORD. Yes; only so far as it applied to fuel and light. We raised it from \$60 to \$80.

The CHAIRMAN. Oh, that was it—only as to fuel and light.

Mr. HITCHCOCK. How long ago was that?

Mr. STAFFORD. Two years ago.

Mr. HITCHCOCK. That was before I was in charge of the service.

I refer to this question of the allowances for rent, light, and fuel at third-class post-offices on page 31 of the report and state there the reasons why it seems to me wise to raise the maximum.

The CHAIRMAN. This maximum is simply a "pacing rate," is it not? The demand usually moves up as the limit moves up, does it not?

Mr. HITCHCOCK. We do not allow the maximum; it is a rare thing to allow it.

The CHAIRMAN. Are you not allowing \$400 at any place?

Mr. HITCHCOCK. We rarely allow the maximum. The same condition prevails as in the allowances for clerk hire at third-class offices.

The CHAIRMAN. Then would not substantial justice be secured if we made an additional increase of the total appropriation and let the maximum stand?

Mr. HITCHCOCK. If you raised the total without permitting an increase in the maximum, it would embarrass the Department in certain cases where it seems to me needless to embarrass it.

The CHAIRMAN. You do not expect the Department to be relieved from all embarrassment, do you, in all cases?

Mr. HITCHCOCK. I certainly do not, Mr. Chairman; but I am anxious to decrease the embarrassment as far as possible.

The CHAIRMAN. Do you not believe, Mr. Hitchcock, according to your experience in the field of the Government dealing with the individual citizen, that if you increased this maximum to any point you would still have an amount of embarrassment by reason of the demands for higher rents, reaching as far as possible to the limit?

Mr. HITCHCOCK. The general practice has been to allow considerably less than the maximum, and no embarrassment has come from that fact. It is only in these unusual cases, where, owing to peculiar conditions, we can not get quarters for the sum now permitted, that we need to have a higher maximum. But unfortunately we can not very well prescribe in the bill that the maximum shall be available for exceptional cases only.

The CHAIRMAN. Do you practice, pretty generally, competitive bids for rental purposes?

Mr. HITCHCOCK. That is the general practice of the Department.

The CHAIRMAN. I say, that is the general practice? So that whatever the maximum or limitation might be, if you still followed the practice of getting competitive bids, you would get about the same result?

Mr. LLOYD. He can not follow that practice always.

The CHAIRMAN. I know; but I am talking about what is done generally. Sometimes you can not get two people to bid.

Mr. HITCHCOCK. How about the case where the lowest bid obtainable is in excess of the maximum allowed? Then we are unable to rent quarters.

The CHAIRMAN. Have you any such case that you can cite to the committee?

Mr. HITCHCOCK. We have had cases of that kind, where it has been impossible to get quarters suitable for post-office purposes because of the present limitation. That is the reason for this recommendation.

Mr. FINLEY. Is it a general practice that you have second-class post-offices rented as low as \$280.

Mr. HITCHCOCK. We have second-class post-offices rented as low as \$1.

Mr. FINLEY. And in those cases is it not true that the patrons of the office simply pay the lessor the difference between what the Government pays and what the rental of the property is?

Mr. HITCHCOCK. There are cases where public-spirited citizens contribute to bear the expense that is necessary in order to provide adequate post-office quarters.

The CHAIRMAN. And are there not also instances where the owner

of the building offers his building at a low rental in order to get the advantage that accrues to other rental property in that vicinity?

Mr. HITCHCOCK. Such cases are quite common, Mr. Chairman. I think the case that I had in mind when I said that we had rented quarters as low as \$1 was a case of that kind. The lessors were glad to have the post-office at any price in order to bring to their building the patrons of the office.

Mr. FINLEY. Do you think it good policy on the part of the Government to practice that policy?

Mr. HITCHCOCK. Of leasing buildings—

Mr. FINLEY. Where the patrons of the office pay the rental out of their own pockets?

Mr. HITCHCOCK. Of course that part of the transaction is entirely outside of our purview.

Mr. FINLEY. I know; but as a matter of administration of the postal service, should not the Government secure the place that is best suited for the service, and lease the property and pay the rental?

Mr. HITCHCOCK. As a rule, I believe that principle should be followed; but in cases where the Department is able to secure quarters at a lower rental, because of the desire of the people of a place to have adequate facilities provided, I see no reason why it should not be done.

NECESSARY MISCELLANEOUS EXPENSES.

The CHAIRMAN. Let me suggest that we proceed to the next item of the appropriation, "for necessary miscellaneous and incidental items directly connected with first and second class post-offices." You ask for an increase of 6 per cent there. What is the general character of those expenditures?

Mr. HITCHCOCK. That fund is expended chiefly for cleaning, for telephone service, and for directories. Those three items are the leading items of expense under that appropriation.

The CHAIRMAN. When the amount for the current fiscal year was fixed, my recollection is that the increase allowed was based almost entirely upon your suggestion of the low price paid employees for cleaning and maintenance of the buildings, and that it was the purpose of the Department to pay out the most, if not all, of that increase for that purpose. What is the purpose of this increase of \$15,000—the same or some other purpose?

Mr. HITCHCOCK. We do not limit the increase to any one line of expenditure; but unquestionably the principal part of it would be devoted to that purpose.

The CHAIRMAN. But last year, my recollection is, you stated to the committee that that was the main purpose of the increase then asked for.

Mr. HITCHCOCK. Yes; I remember stating that.

The CHAIRMAN. I wondered whether that was the main purpose this year.

Mr. HITCHCOCK. It is also the main purpose this year.

The CHAIRMAN. Can you tell the committee approximately what proportion of the total appropriation is paid out to cleaners?

Mr. HITCHCOCK. I can submit a statement showing the allotment of that appropriation in detail, if you desire; but I have not the figures with me.

The CHAIRMAN. Would you be able to show from the records in your own office, or would we have to get the information from the

Auditor, as to what proportion of this expenditure is for cleaning, and what for furniture, and what for other purposes?

Mr. HITCHCOCK. We can show the amount of the allowances from the records of our own office.

The CHAIRMAN. That is, the allotments? Do you allot so much for cleaning and so much for furniture?

Mr. HITCHCOCK. Yes; the allowances. The exact expenditures would have to be shown from the Auditor's returns, because expenditures, as you know, are reported directly to the Auditor. There is no administrative review of these accounts in the bureau.

The CHAIRMAN. Then the additional increase of six per cent, amounting to \$15,000, is due entirely to the growth of the service and the enlargement of buildings, etc.?

Mr. HITCHCOCK. And also to the increase in wages. That would be an important factor.

The CHAIRMAN. What is the average pay to the laborer that does the cleaning?

Mr. HITCHCOCK. That would depend. It is a pretty hard thing to say, in view of the fact that the appropriation is distributed to offices all over the country. Conditions vary greatly in different places.

The CHAIRMAN. Do you allow a laborer doing the cleaning work in an office in one State a different compensation from a laborer doing exactly the same character of work in an office in another State?

Mr. HITCHCOCK. We do not apportion the appropriation in that way. We allow a certain amount to the postmaster to expend for cleaning. We start with an allowance of \$60 a year, my impression is, for a small, second-class office, and the scale goes up. We do not fix any rate of wage. That is a matter that the postmaster attends to.

RENTAL OR PURCHASE CANCELLING MACHINES.

The CHAIRMAN. In the item for rental or purchase of canceling machines, you ask for an increase of 20 per cent. Is that for additional rent or additional purchase?

Mr. HITCHCOCK. That is for additional rent. The Department is not purchasing any machines at present. It is not able to purchase the high-grade machines, because the proprietors do not sell them, and we do not care to purchase inferior machines.

Mr. SNAPP. By "additional rent," do you mean additional machines, or a larger price for those rented?

Mr. HITCHCOCK. Additional machines, at the same rate of rental, or less.

The CHAIRMAN. Has the rate of rent advanced on these individual machines?

Mr. HITCHCOCK. During the past year we succeeded in getting a reduction in the rates of rental for certain machines.

The CHAIRMAN. Can you give the committee the rates of rent that the Government is now paying for these machines; and also, if you have the information at hand, the number of the various machines?

Mr. HITCHCOCK. I can submit a table showing the number, the style, and the rate of rental for each machine that we are using, Mr. Chairman, if you desire.

The CHAIRMAN. Very well; that is information that is well worth having.

Mr. STAFFORD. Has there been a reduction in the rent (if you can state it offhand) of the high-class machine, the Hey-Dolphin "flyer"?

Mr. HITCHCOCK. The Hey-Dolphin people have brought out another machine that is furnished at a lower rental.

Mr. STAFFORD. Is it a hand machine, or one operated by an electric motor?

Mr. HITCHCOCK. An electrical machine.

Mr. STAFFORD. Is there any competition at present between the manufacturers of these machines?

Mr. HITCHCOCK. There is a general competition—that is to say, the manufacturers of machines of different degrees of efficiency are competing to get their respective machines into the service; but there is practically no competition at present as regards the machines of the highest class.

Mr. STAFFORD. Have you installed any machines during the past year of makes other than those manufactured by the Hey-Dolphin Company? If so, to what extent?

Mr. HITCHCOCK. If you like, I can read the names and the numbers right now. I have the table.

Mr. STAFFORD. All right.

Mr. HITCHCOCK. We have in operation 254 of the Hey & Dolphin "flyers," as they are called. That is the highest priced machine we rent.

The CHAIRMAN. Can you give the rental rate?

Mr. HITCHCOCK. Yes; we pay \$400 a year for that machine.

We now have 50 of the new Hey & Dolphin electric "S" machines. We pay \$150 a year for that style.

The CHAIRMAN. That is the machine you referred to a while ago?

Mr. HITCHCOCK. That is the machine to which I just referred. We are utilizing it quite extensively now. We find it a better investment to put \$150 into the "S" machine than to put \$400 into the "flyer"—that is, speaking generally. Under some conditions, of course, the "flyer" is almost necessary.

Then we have 100 of the Hey & Dolphin hand-power machines, the rental of which is \$90 a year. We have secured a reduction from \$100 to \$90 in the rental of that machine.

We have 225 of the American combination machines, at an annual rental of \$150 each.

We have 375 of the American drop-feed machines, at \$100 each. Last year we paid \$110 for that machine.

We have 100 of the American hand-power machines, at \$80 each, the same rental as last year.

We have 67 of the Columbia machines, at \$150 each, and 71 of the Barry machines, at \$150 each.

This makes a total of 1,242 canceling machines under lease to the Department. In addition to the machines enumerated we have contracted for 6 of the new machines made by the Time-Marking Machine Company of Chicago, at an annual rental of \$300. This is the machine that was expected to compete with the Hey-Dolphin "flyer."

We also have about 350 of the Doremus hand-power machines still in use. As you know, the Doremus machines are owned by the Department.

The CHAIRMAN. How is this last machine you referred to as the Chicago machine proving?

Mr. HITCHCOCK. The time-marking machine?

The CHAIRMAN. Yes; how is it doing?

Mr. HITCHCOCK. That machine has been tested at the Chicago office and at the Washington office, with fairly satisfactory results; but the company has not felt that the machine was sufficiently perfected to warrant filling the order.

The CHAIRMAN. If the \$50,000 additional appropriation were allowed, is it the purpose of the Department to apply it entirely to the rental of machines?

Mr. HITCHCOCK. It would be necessary, under present conditions, to apply it entirely to the rental of machines.

The CHAIRMAN. And what particular machine would probably be rented?

Mr. HITCHCOCK. If the time-marking machine is perfected, we should be inclined to rent some of those machines, because they would compete with the Hey-Dolphin "flyers." We feel like encouraging as much competition as possible. If that machine is not perfected, it may be necessary to rent some additional "flyers" for use in the large offices. Where the mail is very heavy the "flyer" is the most economical machine to use. The probability is, however, that we will rent a considerable number of what is known as the Hey-Dolphin "S" machines at \$150 each. That machine has proved to be very satisfactory; and in extending the use of electrical machines to smaller offices, I imagine we should consider the model "S" about the best investment.

Mr. STAFFORD. Has the Department any contract with the Time-Marking Machine Company to receive its machines, in case they are perfected, at the price of \$300?

Mr. HITCHCOCK. We have a contract for the rental of six machines.

Mr. STAFFORD. At that figure?

Mr. HITCHCOCK. At the rate of \$300 each.

Mr. STAFFORD. You have no contract which grants the Department the rental of additional machines at that figure?

Mr. HITCHCOCK. I refused to make a larger contract because I did not wish to tie up the money. That was done the year before, and the company failed to produce its machines. The result was that the amount covered by the contract was "tied up," as I expressed it, in such manner that we could not apply it to other uses, and for that reason I thought it best to contract for only six at the outset.

Mr. STAFFORD. But if the machine is a success, there is nothing to prevent the manufacturers from raising the price, in case they have a machine as good as that manufactured by the Hey-Dolphin "flyer" concern? In other words, the Government has no reservation or option to rent additional machines at the lower rental?

Mr. HITCHCOCK. If the time-marking machine should prove to be as good as the Hey-Dolphin and the price should be raised to \$400, there would be no object in our substituting one for the other, particularly in view of the expense necessarily incident to new installation.

Mr. STAFFORD. There would be an object in case it was just as good and they raised their price to \$390?

Mr. HITCHCOCK. Oh, yes; if we could procure those machines at a lower rental and they were equally effective in their work, we should take them.

Mr. STAFFORD. Does the Department contemplate extending the use of the canceling machines to any of the second-class offices of a lower grade than those in which they have been in force heretofore, by reason of this increased appropriation, or is the increased appropriation solely for the additional mail service in the offices where they are at present installed?

Mr. HITCHCOCK. The increase is not large enough to warrant supplying canceling machines to the smaller offices—that is, to any considerable extent. We have submitted an estimate that is calculated, in our judgment, to meet the growing needs of the larger offices where that method of cancellation is now in use.

SALARY AND ALLOWANCE DIVISION.

The CHAIRMAN. Mr. Hitchcock, I want to make some inquiry in reference to the compensation to your assistant superintendents of the Salary and Allowance Division. Since your estimate was submitted through the regular channel your report has been made public, wherein I think you make some recommendations of change of title and increase of number.

Mr. HITCHCOCK. I favor very strongly an increase in the number of these field agents, believing that the investment of money in the compensation of such men, if they are properly selected, is an exceptionally good investment. I find that the services of the agents now employed have been exceedingly valuable in many ways during the past year.

The CHAIRMAN. We increased the number last year by how many?

Mr. HITCHCOCK. By three. You increased the number from seven to ten, and with the experience of the past year behind me I can say that you did a wise thing.

The CHAIRMAN. What is your method of using this force—a division of the country, or a division of the offices by grade of receipts?

Mr. HITCHCOCK. Since the hearings of a year ago I have broadened the scope of their work somewhat. Originally they devoted their time almost exclusively to the lease work of my bureau—an exceedingly important line of work. But during the past year I have utilized some of these field agents, as far as they could be spared from the lease work, to assist me in carrying out some of the reforms that we are trying to inaugurate in the management of post-offices. I go into that question at some length in my report under the heading of "Post-office methods."

The CHAIRMAN. That is at page 27.

Mr. HITCHCOCK. I assure you that an immense sum of money can be saved by systematizing post-office methods. My field superintendents are helping me to bring this about.

The CHAIRMAN. In general, do I understand you to say that this force is used in the matter of leases and rental of buildings?

Mr. HITCHCOCK. The principal work of these field superintendents has been and still is the leasing of post-office quarters. They are not able with their present force to perform all that work. In my judgment there should be a large enough force to handle all the lease work and also to assist in certain administrative work.

The CHAIRMAN. At page 6 of your report, at the point where you ask for the additional force, you say:

The corps should be large enough to handle the field work of the city-delivery service in conjunction with the duties now performed.

Do you mean by that to make that examination with reference to city-delivery routes, and the necessity for additional carriers?

Mr. HITCHCOCK. Yes, sir; that is precisely what I mean.

The CHAIRMAN. That work is now performed by post-office inspectors?

Mr. HITCHCOCK. It is performed almost altogether by post-office inspectors. It often happens that my field superintendents are at work on a problem involving the consolidation of post-offices, the establishment of stations, or something of that kind, where one of the principal factors in the plan of reorganization is the city-delivery service. As the work is now conducted, the practice is to detail an inspector to cooperate with my agents, whereas if my representatives had the authority they could handle the whole problem and get better results.

The CHAIRMAN. I again ask you, in the operation of that service do you divide the country into divisions, assigning an assistant superintendent to each division; or do you assign them promiscuously?

Mr. HITCHCOCK. As far as the lease work is concerned, we divide the country up into a series of divisions. Each field superintendent has his own territory as regards such cases.

The CHAIRMAN. Do you fix a certain territory, and assign an assistant superintendent to it, and designate headquarters in that territory for him?

Mr. HITCHCOCK. We designate headquarters for him in his territory. We hold him responsible for the lease work in his territory, so far as he is able to handle it.

The CHAIRMAN. Is the country now divided into ten divisions?

Mr. HITCHCOCK. No; because of the absolute necessity I felt of having some further assistance in certain administrative work that I have been endeavoring to perform—the work of systematizing post-office methods.

The CHAIRMAN. How many such divisions are there now?

Mr. HITCHCOCK. There are at present eight—one more than we had two years ago. Two men I have not assigned to divisions because of the reason just mentioned—I have been utilizing them in special work.

The CHAIRMAN. Have you ever given any thought to the propriety or wisdom of having traveling auditors who would audit the larger first-class offices and check up their accounts, instead of leaving that to the post-office inspectors?

Mr. HITCHCOCK. I recall, Mr. Chairman, that some time ago you made that suggestion to me; and I have given it a good deal of thought since then, because I thought it was such an excellent suggestion.

The CHAIRMAN. What is the practice now as to auditing or checking up the accounts of the larger post-offices of the country?

Mr. HITCHCOCK. The practice is to detail post-office inspectors for that work.

The CHAIRMAN. For example, how often is the Washington or New York office inspected?

Mr. HITCHCOCK. Those offices are supposed to be inspected once a year; but as a matter of fact it often happens that two years, and sometimes three, elapse between the inspections of Presidential offices.

Mr. STAFFORD. Do you mean solely as to the money accounts or an inspection of the office generally?

Mr. HITCHCOCK. As to the money accounts and the general condition of the office.

The CHAIRMAN. How many post-office inspectors are under use in the inspection of offices of the first class, with reference to their money accounts and general condition?

Mr. HITCHCOCK. That would be a hard question for me to answer. I doubt whether a direct reply could be made to that question, because of the manner in which the inspection service is conducted. The same inspector usually examines offices of several classes. The detail of inspectors to make examinations of post-offices depends quite largely upon the condition of the other work they are called upon to perform, and especially the depredations work, which naturally consumes a considerable part of their time.

Mr. STAFFORD. What work is performed by the traveling field agents assigned to the registry division who are carried in the legislative bill?

Mr. HITCHCOCK. They are under the Third Assistant Postmaster-General. They perform no duties, so far as I am aware, except those pertaining to that special branch of the service. As I understand it, their principal duty is to supervise the registry service at large, to visit the various offices where that service is conducted, and to examine into the condition of the registry business and the methods of conducting it.

The CHAIRMAN. Are not their duties largely in the nature of instruction to postmasters and consultation with men of affairs in the different communities in order to stimulate the registry service?

Mr. HITCHCOCK. To some extent I imagine that is their function.

The CHAIRMAN. Do you think you have hit upon the proper title, if the title should be changed?

Mr. HITCHCOCK. I think that the title "special agent" would probably be the most appropriate.

The CHAIRMAN. Why do you think it ought to be "Division of salaries and allowances?"

Mr. HITCHCOCK. I do not think it should be "Division of salaries and allowances."

The CHAIRMAN. That is the recommendation this year from your Bureau—to appropriate this money for the compensation of ten assistant superintendents, division of salaries and allowances.

Mr. HITCHCOCK. I think that must be an error if it reads in that way. My recollection is that I omitted "Division of salaries and allowances" and gave the title as "field agents." I think the title "special agents" would be even better.

The CHAIRMAN. On page 4 of the estimates for the postal service you will find that expression used.

Mr. HITCHCOCK. Well, Mr. Chairman, I am at a loss to understand that; because I have in my hand a carbon copy of the original statement of estimates that I submitted, and in that statement the item reads as follows: "For compensation and expenses of field agents, \$34,600."

The CHAIRMAN. In the Book of Estimates it is, "Compensation of ten assistant superintendents, division of salaries and allowances," etc., and of course the bill is made up from the estimates and not from anything else.

Mr. HITCHCOCK. The only way I can explain it is that some change was made after the statement left my Bureau.

The CHAIRMAN. Do you not think that whatever those employees may be called they ought to be directly under the First Assistant?

Mr. HITCHCOCK. Unquestionably.

The CHAIRMAN. And not under any one of the First Assistant's subordinates?

Mr. HITCHCOCK. Unquestionably they should be under the head of the Bureau; and that is the way the service is now conducted. They should be his representatives in the field. I see no reason why one division should control them any more than another.

The CHAIRMAN. If the committee should follow the language of the estimates and make this provision for the division of salaries and allowances might it not pass the control over to the present chief of the division of salaries and allowances?

Mr. HITCHCOCK. The authority to decide that question would still rest in the head of the Bureau. I exercise that authority now and supervise personally the work of these agents.

The CHAIRMAN. Reports are made directly to you?

Mr. HITCHCOCK. Whenever I require it.

The CHAIRMAN. You keep a personal supervision of the work?

Mr. HITCHCOCK. I supervise personally that service.

Mr. STAFFORD. Is the lack of supervision of accounts of these large post-offices, which are supposed to be inspected by inspectors, due solely to their having other work that takes them away in the field?

Mr. HITCHCOCK. As the practice seems to be to assemble a half dozen or more inspectors whenever it is decided to make an examination of a large first-class office, it has occurred to me that the difficulty of getting together that number of men at any given time may be responsible to some extent for the delay that often occurs in the examination of such offices. At any rate, I have noticed from the records that pass through my hands in connection with the appointment work, that frequently at the largest offices there is considerable time between the periodical inspections.

Mr. STAFFORD. The work of inspection of a large office requires an examination to be made by more than one person?

Mr. HITCHCOCK. Usually several inspectors are detailed to examine one of the large first-class offices.

The CHAIRMAN. Who directs that examination? When it is determined to have a large office given a general auditing and inspecting, who issues the order for it?

Mr. HITCHCOCK. The inspector in charge of the district usually decides when a large city post-office shall be inspected, unless directions go to him from the Department.

The CHAIRMAN. Do you, as the controlling official of the First Assistant's office, leave it to the chief post-office inspectors of the country to determine when and how the inspections of these large first-class offices shall be made?

Mr. HITCHCOCK. I do that except when the question of the post-master's reappointment is involved.

The CHAIRMAN. To whom are the various reports of those inspections made—to the chief post-office inspector?

Mr. HITCHCOCK. The reports are submitted originally to the inspector in charge of the district, who examines them, and, if he approves them, transmits them, with approval, to the chief inspector. The chief inspector then examines them in turn, and trans-

mits them to the Bureau of the Department chiefly concerned in the examination, which is usually the Bureau of the First Assistant.

The CHAIRMAN. But you have no regular system of your own under the operation of which the inspection and auditing of the accounts of the large post-offices is done?

Mr. HITCHCOCK. I do not, because that work is not under my control.

The CHAIRMAN. Whose control is it under?

Mr. HITCHCOCK. It is under the control of the chief inspector.

The CHAIRMAN. What law puts it there?

Mr. HITCHCOCK. The law that places the inspectors under him gives him authority to direct their movements.

The CHAIRMAN. But does that follow as to the inspection and auditing of the ordinary financial accounts of the office, or is it with a view of ascertainment of violations of the law?

Mr. HITCHCOCK. It has long been the practice of the Department. Whether or not it was originally intended to be so, I do not know; but as a matter of precedent it has come to be considered the work of the inspection force.

The CHAIRMAN. Do you or do you not think that it would be either wise or proper or expedient to change that and place upon some official the duty of a systematic inspection and audit of the accounts of the larger offices?

Mr. HITCHCOCK. Wherever the authority is placed, there ought to be a more systematic method of examining post-offices at stated intervals. It is one of the most important duties in the administration of the service, it seems to me.

The CHAIRMAN. Do you know of any large business concern which has branches or departments that have as loose a method of inspection and supervision as that that obtains in the postal service?

Mr. HITCHCOCK. I do not know of any; but I can not claim an intimate knowledge of many business concerns.

The CHAIRMAN. Does not that work fall sufficiently within your bureau to justify you in making some sort of effort to modify it, or at least to make recommendations to Congress on the subject? First-class post-offices are under the first assistant, are they not?

Mr. HITCHCOCK. Yes.

The CHAIRMAN. And would you not regard them sufficiently within your jurisdiction to give some sort of attention looking to the inspection and auditing of their accounts; or do you regard the law as sufficiently lame that you do not know whether you have authority to do that or not?

Mr. HITCHCOCK. My authority to request an inspection is recognized. I regularly issue letters of request to the chief inspector.

The CHAIRMAN. When you make that request, whom do you request?

Mr. HITCHCOCK. I send a letter to the chief inspector, requesting him to order an examination of a given post-office, but as I do not control the force that makes the inspection, I can not readily determine the time for the examination, nor can I regulate the method of procedure.

The CHAIRMAN. There was, according to newspaper reports, a defalcation in the accounts of some official of the Washington post-office a year or two ago, I believe?

Mr. HITCHCOCK. Yes.

The CHAIRMAN. How long had it been prior to the time of that discovery since the Washington office had been inspected and its accounts audited?

Mr. HITCHCOCK. It had been about two years, I think.

The CHAIRMAN. The papers at the time said four years.

Mr. HITCHCOCK. It may have been over two. It was several years.

The CHAIRMAN. What is the average period between inspections of the higher offices of the first class?

Mr. HITCHCOCK. I should say that the average period is between one and two years. It would be nearer two years than one, I think.

The CHAIRMAN. Have you given the subject sufficient thought to be able to suggest to the committee how large a force would be required to conduct a proper and systematic inspection at regular intervals of the first fifty offices of the first class?

Mr. HITCHCOCK. Well, Mr. Chairman, if we had competent auditors who were qualified to go into a large business establishment like a first-class city post-office and examine its finances as intelligently as expert accountants do, it seems to me that the number of such experts would not have to be large.

The CHAIRMAN. I ask if you have given it sufficient thought to be able to suggest about how large?

(Mr. Hitchcock explained informally that the average inspection of a large post-office would take several days.)

The CHAIRMAN. You would not expect an auditor to audit the accounts of the post-office of the city of Chicago in two or three days, would you?

Mr. HITCHCOCK. I am speaking of the average. It would take much longer at Chicago. That office is a tremendous establishment, like the New York office.

The CHAIRMAN. In your judgment, would five auditors, assuming them to be experts, be able to audit, on an average of once every eighteen months or two years, 50 first-class offices?

Mr. HITCHCOCK. I should think so. They could audit them at least once a year, in my judgment.

The CHAIRMAN. Could the five, then, audit 50 offices once a year? Sometimes all five of them would be at one office; at other times, on a smaller office, perhaps two of them.

Mr. HITCHCOCK. There are fifty-two weeks in a year, and if an auditor examined only one office a week he could go through the 50 offices in a year; and five auditors—

The CHAIRMAN. Five men would be ample, would they not?

Mr. HITCHCOCK. It seems so to me.

The CHAIRMAN. To provide annual inspection of perhaps more than the 50 largest offices?

Mr. HITCHCOCK. It seems to me that five competent men could do that work very satisfactorily in the year.

The CHAIRMAN. Do you not think it would be advisable to make some such provision of law?

Mr. HITCHCOCK. Since you suggested that idea to me I have thought of it a good deal, and I believe that it would be a desirable thing to do.

Mr. STAFFORD. Has the inspection service, as heretofore conducted

in the larger offices, proved deficient in any particular, or is the criticism merely because of its not having been done more frequently?

Mr. HITCHCOCK. There are all kinds of men in the inspection service, as there are in every large service. Sometimes we find that the work of inspection has not been thoroughly done. It depends on the man.

Mr. STAFFORD. Do you refer to the inspection that takes place of the larger offices, or do you refer to the inspection by one inspector of some of the smaller offices?

Mr. HITCHCOCK. It is true of both classes of cases. The plan suggested by the chairman would have this great advantage: The auditing of large city offices would always be performed by a man who was competent to do such work. As it is now, the detail of a given inspector from the large force of inspectors to examine a certain office depends quite largely upon the convenience of such detail. It depends to some extent upon the work the inspector has to do in other directions. Generally the most available man is selected, and sometimes the most available man is not well qualified to do that kind of work.

Mr. STAFFORD. But the great majority of the inspectors are daily occupied more or less frequently in the inspection of the accounts of post-offices?

Mr. HITCHCOCK. Of small post-offices; but that is an entirely different matter.

Mr. STAFFORD. It is only a question of degree, is it not?

Mr. HITCHCOCK. It is more than a question of degree.

The CHAIRMAN. It is like a bank examiner inspecting a bank capitalized at \$25,000 on the one hand and the National City Bank on the other.

Mr. HITCHCOCK. The operations of the large city post-offices are naturally much more complicated than the operations of the small post-offices.

Mr. STAFFORD. Is the system of bookkeeping and the system of keeping accounts the same in the large second-class offices as it is in the largest first-class offices?

Mr. HITCHCOCK. Mr. Stafford, the system of keeping accounts varies throughout the entire postal service, and that is one phase of the work that could, with great advantage, receive the attention of such men as the chairman has in mind.

Mr. STAFFORD. This matter is on a line with the recommendation of the Postmaster-General, recommending a commission to make an inspection of the auditor's department here as to the improvement of methods of auditing?

Mr. HITCHCOCK. Unquestionably.

The CHAIRMAN. Do you not think it would be a pretty good idea if the entire postal service were given a thorough auditing?

Mr. HITCHCOCK. These auditors, devoting all their time to the examination of accounts, would undoubtedly improve the accounting system throughout the service. They would introduce the best methods in all post-offices. That would be an important part of their work, as I understand it.

Mr. STAFFORD. Should they be separate and distinct from these assistant superintendents that are now connected with the service, or

should they also be called upon to discharge such other detail work as the bureau chief should assign to them?

Mr. HITCHCOCK. My judgment is that the better plan would be to keep them separate and distinct; to assign them simply to that duty. We should procure men who are thoroughly competent to do that work because of having specialized in it, and we should give them adequate salaries. It would be necessary to pay them higher salaries than you are now paying my field superintendents. Expert accountants can not be procured at that salary.

Mr. FINLEY. General, would you place them immediately under the First Assistant? I mean, would that be the most desirable assignment?

Mr. HITCHCOCK. I think that would be entirely proper, although the important thing is to have the work done.

The CHAIRMAN. I would not suggest putting them under the chief post-office inspector.

Mr. STAFFORD. You would not recommend the extension of the inspection to all the post-offices, even those above the third class; but you would merely limit them to the largest post-offices, where the work of auditing is quite complicated?

Mr. HITCHCOCK. My judgment is that the examination of the smaller offices can be conducted without any difficulty by the inspectors as at present, but I do not think the inspectors are qualified, as a rule, to go into the immense city post-offices and do the work of expert auditors. Such work is frequently beyond their scope; it is somewhat outside of their usual duties; it requires special training in accounts.

Mr. SPERRY. Mr. Hitchcock, I understood you to say that you have not the inspectors fully under your control, because they are under the chief inspector; but you said that your instructions were usually obeyed, as I understood you.

Mr. HEDGE. His requests.

Mr. SPERRY. That is, they follow your instructions, and visit the particular office, and look into the operation of it?

Mr. HITCHCOCK. Yes.

Mr. SPERRY. Now, take an office where there are several candidates. Under your ideas of running the Post-Office Department, as published, you say that you would like to have the man in the post-office remain, provided the inspection is such as is agreeable to the Department. You do not go so far as to say that the inspectors would not obey your orders, or that you would hurry along the business before the inspection was made, do you?

Mr. HITCHCOCK. If I understand you correctly, Mr. Sperry, the practice is, when we call for the examination of a certain office, to await the result of that examination before taking action in the case. That has been the method of the Department.

Mr. SPERRY. Yes; I had supposed so.

Mr. HITCHCOCK. And of course delay frequently occurs.

Mr. SPERRY. So that, practically, you have the appointment or naming or sending of the inspectors to the post-office where there are several candidates?

Mr. HITCHCOCK. Oh, yes. The right of the First Assistant to order

an investigation or an examination has never been questioned. The inspection service is supposed to be at his command for that purpose.

Mr. SPERRY. You say that you would be largely governed, in the instructions that I have seen given out, by what these inspectors report; more so than what a Senator or a Representative might say?

Mr. HITCHCOCK. I do not think I have ever been guilty of making that statement.

Mr. SPERRY. If these inspectors were not so important you would not wait for their report; but certainly if they are so important you would wait until they had reported, of course?

Mr. HITCHCOCK. That is the practice; yes, sir.

Mr. STAFFORD. Will you state under your revised estimate the number of assistant superintendents that you think are necessary for the service?

Mr. HITCHCOCK. It was my purpose to recommend that the number be increased from 10 to 15, for I believe that we could use 5 additional men of the right kind during the coming year with great advantage to the service.

(The committee thereupon adjourned until to-morrow, Thursday, January 10, 1907, at 10.30 o'clock a. m.)

COMMITTEE ON THE POST-OFFICE AND POST-ROADS.

THURSDAY, *January 10, 1907.*

Called to order at 10.45 a. m.

STATEMENT OF HON. FRANK H. HITCHCOCK, FIRST ASSISTANT POSTMASTER-GENERAL—Continued.

THIRD AND FOURTH CLASS POSTMASTERS.

Mr. HITCHCOCK. May I revert to the question of advancing postmasters from the fourth class to the third class? I am anxious to make another brief statement upon that point, and the chance may not again present itself.

After thinking over the suggestion made yesterday by Mr. Stafford, I am convinced that it is hardly practicable. I think there is a very strong reason why we should make it possible for the fourth-class offices where the business is much heavier at one period of the year than at another to advance to the Presidential class.

The truth is that postmasters at such offices are subject to a greater expense than postmasters who conduct fourth-class offices under normal conditions where the business is about the same throughout the year. At summer and winter resorts, where the population is unusually large during a given period, the postmasters have to provide the necessary equipment to give adequate postal facilities at the time when the business is greatest. They have to provide more spacious post-office quarters and a larger number of delivery boxes than under normal conditions. Furthermore, they have to handle the mail in a radically different manner from the usual method in fourth-class offices. As a rule the population at summer and winter resorts is largely transient, and consequently the post-office employees are obliged to distribute mail constantly to people whom they do not

know. This adds to the difficulty and expense of the work. Where the population is the same throughout the year it is a much simpler matter to handle the mail.

I wanted to set forth these considerations as showing that a considerable hardship falls upon postmasters at summer and winter resorts. At such offices the expenses are greater than at fourth-class offices where the amount of business varies little throughout the year.

Mr. SPERRY. I would like to ask a question here. Take an office which is not large, do you have a special-delivery clerk appointed? In cases where this is not, how do you get along when a letter comes in—a special-delivery letter? Who does the postmaster appoint, and in what way does he get his pay?

The CHAIRMAN. He usually delivers it himself.

Mr. HITCHCOCK. If he is unable to deliver it himself, he is obliged to send out and get any messenger that is available.

The CHAIRMAN. I understand the law is, or the practice, that the postmaster himself is permitted to deliver the letter himself and take the pay.

Mr. SPERRY. In some places, where they have no regular designated clerk, the postmaster has to go out and call upon somebody whom he does not know, perhaps, to deliver the letter. In some cases they are obliged to take a man who is not known and who might be a thief.

The CHAIRMAN. Still a man at a small office, to which I suppose you refer, is usually known in the community and known to the postmaster.

PAY OF LETTER CARRIERS IN FIRST AND SECOND CLASS OFFICES.

The CHAIRMAN. Mr. Hitchcock, the committee would be glad to hear from you relative to your recommendation affecting the pay of letter carriers in offices of the first and second class.

Mr. HITCHCOCK. Mr. Chairman, I have prepared by way of suggestion a draft of that section of the appropriation bill that relates to the city-delivery service, including the paragraph covering the compensation to letter carriers, and I would like to submit the draft in order that it may go into the record.

The CHAIRMAN. This is a letter addressed to me under date of January 10, and I will read it, and then put it in the record. (Reads:)

POST-OFFICE DEPARTMENT.
FIRST ASSISTANT POSTMASTER-GENERAL.
Washington, January 10, 1907.

HON. JESSE OVERSTREET,

Chairman Committee on the Post-Office and Post-Roads.

House of Representatives.

MY DEAR SIR: I transmit herewith, by way of suggestion, a draft of the section of the proposed appropriation bill comprising the various items that relate to the city delivery service.

In this draft the original estimate for compensation to letter carriers is increased by \$843,300, making a total increase of \$2,000,000 over the appropriation for the current fiscal year.

The original estimate for horse hire and the rental and purchase of vehicles is increased by \$25,000, making a total increase of \$50,000 over the appropriation for the current fiscal year.

In addition to these two increases in the amounts estimated for, certain changes have been made in the phraseology of the appropriation.

Very truly, yours,

F. H. HITCHCOCK,
First Assistant Postmaster-General.

For compensation to letter carriers, including auxiliary, substitute, and temporary carriers, \$24,278,000: *Provided*, That not more than \$50,000 of this sum shall be used for compensation to letter carriers, including auxiliary, substitute, and temporary carriers, at post-offices where city delivery is established during the fiscal year to which this appropriation applies.

For horse hire and the rental and purchase of vehicles, \$775,000.

For car fare and bicycle allowance, \$360,000.

For compensation to 22 mechanics at not exceeding \$900 each, \$19,800.

For Detroit River delivery service, at Detroit, Mich., \$4,500.

For all incidental expenses of the city delivery service, including freight and drayage on equipment, furniture, and supplies, erecting, painting, and repairing letter and package boxes and posts, repairing clocks and other equipment, maps, and miscellaneous items, \$45,000.

For car fare for special-delivery messengers in emergency cases, \$12,000.

For fees to special-delivery messengers, \$1,075,000.

The CHAIRMAN. Do I understand from this letter, Mr. Hitchcock, that the estimate which appears at the foot of page 19 of the skeleton bill of an increase of \$1,156,000 you would now increase by the difference between \$1,156,000 and \$2,000,000?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. Is that on account of the scheme of increased salary recommended in your classification act?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. What carriers would that provide increases for and in what amounts?

Mr. HITCHCOCK. It would provide for promotions of all carriers in the \$850 grade to \$900, making a total expense of \$400,000. It would provide for the promotion of 3,677 carriers in the \$1,000 grade to \$1,100.

The CHAIRMAN. What proportion is that of the total number in that grade?

Mr. HITCHCOCK. Thirty per cent of the entire number, making a total of \$367,700; or a total for the two classes of \$767,700. From this should be deducted the saving effected in promoting carriers from \$800 to \$900 instead of from \$800 to \$1,000, and from \$600 to \$800 instead of from \$600 to \$850, estimated at fully \$75,000—probably between \$75,000 and \$100,000. Estimating this saving at \$75,000, the net increase for promotions would be \$692,700.

The CHAIRMAN. Does that include promotions of carriers receiving \$600 to \$800, or do you regard that as simply not a promotion, but the ordinary method of advancement?

Mr. HITCHCOCK. That would not include any of the advancements under existing law.

The CHAIRMAN. So that all carriers having served at least a year will be promoted ordinarily and regularly from a \$600 to the \$800 grade, in addition to this sum which you have named?

Mr. HITCHCOCK. The saving I speak of would come from the fact that under the bill we would not promote from \$600 to \$850 in the second-class offices, but merely to \$800.

The CHAIRMAN. Then, if your recommendation for the classification of clerks and carriers should prevail and become a law and this form of appropriation which I have just read should be adopted, it would result in this character of payment: All carriers who are advanced from the \$600 class by length of service and efficiency of record would still be advanced regularly, but to \$800 instead of \$850, as the law now provides.

Mr. HITCHCOCK. In second-class offices.

The CHAIRMAN. In addition to that, it would promote all carriers now receiving \$850 to \$900, based upon the efficiency of record and proper length of service.

Mr. HITCHCOCK. It would.

The CHAIRMAN. And that would apply both to first and second class offices?

Mr. HITCHCOCK. To both.

The CHAIRMAN. That is, as to the first-class offices. 30 per cent of those receiving \$1,000 would be advanced to \$1,100.

Mr. HITCHCOCK. There is an intermediate step. All those receiving \$800 would be advanced to \$900, and those receiving \$900 would be advanced to \$1,000.

The CHAIRMAN. All the \$900 carriers who have the proper length of service and efficiency record would be advanced to \$1,000?

Mr. HITCHCOCK. Yes, in first-class offices.

The CHAIRMAN. Then, in addition to that, 30 per cent of those receiving \$1,000 in first-class offices would be advanced to \$1,100?

Mr. HITCHCOCK. It would be possible to advance 30 per cent of those carriers to \$1,100.

The CHAIRMAN. Making a total for increase of how much?

Mr. HITCHCOCK. Excluding increases already provided for, \$692,700.

The CHAIRMAN. I would like to have you explain that feature of your proposed classification bill that applies exclusively to carrier without involving the clerk. I have in mind particularly what advantage you feel would come from making the clerk and carriers of similar classes interchangeable in work, as I construe that statute to authorize.

Mr. HITCHCOCK. It does. Before I take that up I will say, in order to complete my original statement, that the remainder of the \$1,000,000 increase proposed represents the amount to be paid for substitute service during the fifteen days of additional vacation. We estimate that at the outside it would not cost over \$300,000 to give letter carriers an additional fifteen days of annual vacation, making their annual leave with pay thirty days instead of fifteen days, as at present.

The CHAIRMAN. Are there any Government employees elsewhere employed than in the Departments at Washington receiving over fifteen days' leave of absence?

Mr. HITCHCOCK. So far as I know, Mr. Chairman, there are no Government employees receiving compensation in the way of annual salaries and ranking as high in the classified service as post-office clerks and letter carriers who fail to receive thirty days' annual leave.

The CHAIRMAN. Do the employees in the Internal Revenue and Customs service throughout the country receive thirty days' annual leave with pay?

Mr. HITCHCOCK. Yes; so far as their status in the classified service is similar to that of post-office clerks and letter carriers. You understand, of course, that per diem employees everywhere are on a different basis.

The CHAIRMAN. Let me ask you the question in a different way. What Government employees who are receiving annual salaries, and whose work is outside of the city of Washington, now receive thirty days' vacation with pay?

Mr. HITCHCOCK. The employees, for instance, in the Immigration Service; the employees of the Light-House Establishment; the employees in the Steamboat-Inspection Service; the employees in the Marine-Hospital Service, and the employees in the Customs Service.

The CHAIRMAN. All of them?

Mr. HITCHCOCK. That is my understanding, Mr. Chairman. I know about some of these other services because of my former connection with the Department of Commerce and Labor.

The CHAIRMAN. What was the amount that you gave which would be required to advance 30 per cent of the carriers receiving a thousand dollars to the \$1,100 grade?

Mr. HITCHCOCK. \$367,700. That would be the maximum, of course. The actual expenditure might be considerably less.

The CHAIRMAN. But it would take about a million dollars to increase all carriers of the thousand-dollar class one hundred dollars each. Is that correct?

Mr. HITCHCOCK. No, sir; one million for all additional promotions and vacations.

The CHAIRMAN. What amount do you estimate as being necessary for the carrier service in offices of the first and second class, assuming that there is no provision for any increase of salary, but based exclusively on existing law?

Mr. HITCHCOCK. The original estimate would cover that, Mr. Chairman.

The CHAIRMAN. I assume so, but it is not in the record, and I would like to have you state. That would be \$1,156,000, would it not?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. About 5 per cent increase over the current law appropriation?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. I believe the increase of that appropriation for the current law over the previous year was about 4.37 per cent over your estimate for last year.

Mr. HITCHCOCK. Yes.

The CHAIRMAN. In the draft submitted by you covering this appropriation, do you suggest any change of language which would operate as a change of law?

Mr. HITCHCOCK. There are several changes of language that would operate as changes of law.

The CHAIRMAN. Please point out where the differences occur as between your draft and what the phraseology of the present law is, relative to this appropriation, the appropriation for compensation to carriers, and not involving the classification.

Mr. HITCHCOCK. In the first place we have made a rather important change in throwing together the first two items under the head

of "Free-delivery service" in your bill, the items reading "For pay of letter carriers in offices already established, etc.," and "For pay of letter carriers in new offices, etc." We have combined these two items in a single paragraph, with a proviso limiting the sum to be expended during the next fiscal year at offices where city delivery is newly established. The proviso limits the appropriation effectively, but avoids the disadvantage of having two accounts. Where there are two accounts of this kind they invariably cause increased work and additional confusion all along the line from the post-office to the Department.

The CHAIRMAN. Do you, in this new draft, so far as the appropriation for pay of carriers and substitute carriers at new offices are concerned, make any change in the amount of your original estimate?

Mr. HITCHCOCK. There is no change in amount. The proviso carries the same sum that your second item carries.

The CHAIRMAN. And the consolidation is recommended entirely for an improved method of keeping the accounts?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. In addition to that what changes are there?

Mr. HITCHCOCK. There is a general change in the phraseology of the combined item as we have framed it. The original items include a number of descriptive words that do not appear to add anything to the scope of the appropriation, or to restrict it in any way that can not be accomplished by a simpler form of expression. In framing the new appropriation we endeavored to adopt the simplest and most effective language possible. I am confident that nothing is lost in the way of restriction by our changes.

The CHAIRMAN. By the omission of specific reference to holiday, election, emergency, and summer and winter resort service, would not the authority be so enlarged that temporary and substitute carriers would be employed at any office and at any time rather than restricting it as this provision of law now restricts it, to the temporary and emergency service, or holiday and election occasions, and at summer and winter resorts?

Mr. HITCHCOCK. The clause that reads, "Including auxiliary, substitute, and temporary carriers," covers every necessary condition of service.

The CHAIRMAN. Exactly so, but the point I make is this: The law now restricts you, does it not, to the expenditure of this appropriation for emergency and temporary service, and holiday, election, and for emergency and temporary service, and holiday, election, and emergency occasions; and in addition thereto, for those occasions at summer and winter resorts?

Mr. HITCHCOCK. But, Mr. Chairman, the holiday, election, and summer and winter resort conditions are all emergency service. What is the distinction between the so-called emergency service and these other conditions?

The CHAIRMAN. What has been your practice in the operation of this provision of law? Have you regarded that you could expend any of this sum for any time, any where?

Mr. HITCHCOCK. Whenever an emergency exists we are bound to expend the appropriation to meet it; that is what it is provided for.

The CHAIRMAN. So that in the construction of the statute, and the operation of the expenditure, you have been guided by determining

what the emergency is rather than whether or not it is on a holiday or election occasion.

Mr. HITCHCOCK. It is the need of the service, Mr. Chairman, and always must be.

The CHAIRMAN. But I still inquire whether or not you have in the operation of this law been at all concerned with holidays or election occasions any more than any other emergency occasion?

Mr. HITCHCOCK. In your bill there is no division of the appropriation into specific amounts for use under these various conditions, and consequently there seems to be no advantage in putting these expressions into the law. As a matter of practice they do not mean anything in the actual administration of the appropriation.

Mr. STAFFORD. Would you consider a letter carrier's service at a small summer resort, where the needs of the service were regular, an emergency service? I mean regular each year.

Mr. HITCHCOCK. If the necessity for that carrier's service grew out of unusual conditions, and did not come from a normal growth of postal business, I should certainly say that it would fall under the general description of emergency service.

Mr. STAFFORD. But the condition there is not emergent; it is usual each year when those conditions arise, and under the decision of the Comptroller, I do not think you could consider those conditions unusual if they would occur regularly from year to year, just like the seasons, and therefore we provide a separate clause providing temporary letter-carrier service at those resort places.

Mr. HITCHCOCK. Mr. Stafford, would not the same argument apply also to holidays and to election times? They occur with equal regularity.

Mr. STAFFORD. And for the same reason we provide specific authorization for the employment of carriers for holiday occasions and election occasions; and we have also an emergency clause which I believe is more restrictive than what you state.

Mr. HITCHCOCK. But under that general appropriation what can be the effect of the clause? There is no restriction in amount.

Mr. STAFFORD. The effect would be to authorize, as has been the case, the service in any summer or winter resort wherever the department thought there was need for it; and also employ the additional letter carriers for holiday and election service, and for those occasions where there is emergent need. Under your phraseology there would be no restriction whatsoever, as I understand it, but you could establish letter-carrier service at any place wherever the Department thought there was need.

Mr. HITCHCOCK. Under existing law?

Mr. STAFFORD. Under existing law you have no authority to establish letter-carrier service in any office where the receipts do not exceed \$10,000 or the population does not exceed 10,000. But under this authorization you have the authority to establish it at summer and winter resorts, even though the receipts do not aggregate \$10,000 for the year, though during one or two months the receipts might be large enough to warrant some special temporary service.

Mr. HITCHCOCK. So far as I am aware the law has never been construed to mean that.

Mr. STAFFORD. It was represented to the committee, I believe, that we should provide for such contingencies, otherwise you would have

the authority under permanent law to establish letter-carrier service if the receipts were \$10,000 or the population 10,000 for any period of the year you saw fit and decided upon.

Mr. HITCHCOCK. This provision, as I understand it, simply carries authority to augment the service at city-delivery offices where unusual conditions exist, as at summer and winter resorts; not to establish city-delivery service at such resorts before they become city-delivery offices in the usual way.

Mr. SPERRY. What you call large watering places, if you please, which become every year a more or less special resort, and therefore a special occasion, like Saratoga, Newport, and Niagara.

Mr. HITCHCOCK. As I understand this provision of law, the purpose is simply to meet the unusual conditions that occur periodically at such resorts. There are times during the season when the population is much larger than ordinarily at these resorts, and if there is a city-delivery service it becomes necessary at such times to put on additional carriers in order to meet the unusual conditions. When these unusual conditions occur there is an emergency in the sense of this law. It is certainly an emergency, as the term is understood, in the postal service.

The CHAIRMAN. Will you please explain to the committee the difference which you construe to be, with reference to temporary carriers, substitute carriers, and auxiliary carriers, those being the three terms that you use.

Mr. HITCHCOCK. There are two classes of substitute carriers: First, the substitutes who serve in place of carriers on leave of absence without pay. Such substitutes are paid at the rate of compensation received by the absent employees.

The CHAIRMAN. Not exceeding \$800, is it not?

Mr. HITCHCOCK. In the case of clerks it is limited to \$800, but not in the case of carriers. That is another inequality that exists between these two services. In the case of carriers it is the exact salary, whether it amount to \$600, \$800, \$850, or \$1,000.

Then there are the substitutes who serve for carriers absent on leave with pay. These substitutes are paid at the rate of \$600 a year, just as substitutes who serve for absent clerks on leave with pay are paid at the rate of \$600 a year.

The CHAIRMAN. What do you mean by temporary carriers and also auxiliary carriers?

Mr. HITCHCOCK. The temporary carriers are employed to augment the service. Their employment has no relation to the absence of regular carriers. For example, temporary carriers are frequently appointed to meet emergencies like those I described to Mr. Sperry as growing out of unusual conditions at summer and winter resorts. They are employed for all kinds of emergency service.

Mr. STAFFORD. And the temporary carrier may either be on the acting-substitute list or the eligible list, or he may be drawn, if the needs of the service demand, from without the classified service.

Mr. HITCHCOCK. He may be drawn from without the classified service if there are no substitutes and no eligibles available. The civil-service rules restrict such temporary employment to these conditions.

The CHAIRMAN. Will you now please explain the term "auxiliary?"

Mr. HITCHCOCK. What we have in mind by the term "auxiliary"

is a carrier who may be employed regularly for a given period each day, as, for instance, for two hours daily.

The CHAIRMAN. Does that correspond with any kind of employment which is now conducted in the service?

Mr. HITCHCOCK. It corresponds to the substitute service to a certain extent, and also in a measure to the temporary employment service, but differs from both in that the auxiliary service we have in mind is a steady employment for a fixed period daily. For instance, it would be possible under the plan we have suggested to employ at the large city offices auxiliary carriers who could report, say, at 6 o'clock every morning and work until 8 o'clock, giving two hours' service each day. Such auxiliaries could assist in making the first heavy delivery of the day. As a rule, the first delivery represents the stress of the day's work in the carrier service.

The CHAIRMAN. Is work of that particular character now performed and paid for under authorization for temporary carrier employment?

Mr. HITCHCOCK. To some extent by temporary employment, but not under the substitute plan. Substitutes take the place of absent carriers.

The CHAIRMAN. Then you are getting to-day, so far as the service is concerned, all of the service which would still be covered by either your substitute, temporary, or auxiliary service, only you seek to make a division of it?

Mr. HITCHCOCK. Auxiliary service can not be provided now in as satisfactory a manner as would be possible under the plan we have proposed.

The CHAIRMAN. Are you to-day authorizing the employment of temporary carriers for a limited time each day?

Mr. HITCHCOCK. Not as a rule.

The CHAIRMAN. Are you under the law authorized to do it? Why could not you to-day employ a temporary clerk for two hours each day regularly, just as well as if you had the word "auxiliary" included in the law?

Mr. SNAPP. I think he said that was being done largely now under the term "substitute" carriers.

The CHAIRMAN. Why, then, could not you employ substitute carriers regularly two hours each day just as well as you could auxiliaries if you had the word "auxiliary" included in the statute? And what benefit comes to the service itself by enlarging the number of designated positions?

Mr. HITCHCOCK. The auxiliary service, as we propose to organize it, if authority is granted, would carry decided advantages over the present substitute system, and these advantages I have set forth in some detail in my report.

The CHAIRMAN. Exactly so, but I am seeking now to draw out these distinctions which I am not sure are entirely clear in your argument in the report.

Mr. HITCHCOCK. In the first place, the auxiliary plan contemplates regular employment from day to day for a given number of hours. The auxiliaries would be required to report every day at a fixed time and work for a definite period, receiving compensation at a given rate per hour. The purpose is to augment the regular force during a given period each day.

Mr. SNAPP. Do I understand you to say that the plan is being pursued now, but that the carriers are employed as substitute carriers?

Mr. HITCHCOCK. Not in the manner proposed.

The CHAIRMAN. Would these auxiliaries be taken from any list of eligibles under civil-service examination?

Mr. HITCHCOCK. It would be necessary to take them from the substitute roll or from the list of eligibles. Our plan was to take them as far as practicable from the substitute roll.

The CHAIRMAN. And where it was not practicable, where would you take them from?

Mr. HITCHCOCK. From the eligible list.

Mr. STAFFORD. Would this auxiliary provision provide a compensation which would be regular in amount for the substitute each week, a compensation that they could depend upon, and also be a stimulus, would it not, to those on the eligible list to seek to get acquainted with the service?

Mr. HITCHCOCK. That is one of the great advantages of the plan.

Mr. STAFFORD. It is on a par, as I understand it, with the auxiliary service that is required in the operation of street electric railways by having the new men, before they are assigned to special lines, required to work for a few hours each day, and thus being regularly employed a few hours each day, and receiving regular compensation thereafter until they get acquainted with the service.

Mr. HITCHCOCK. It is the same in principle as the employment you describe. Every auxiliary could feel assured that when he reported in the morning he would be employed for a given time that day. He could count on a definite amount of employment from day to day, and consequently on a definite rate of remuneration.

Mr. STAFFORD. Do you need authorization for placing the substitutes, or those on the eligible list, in such service as you describe under the auxiliary head?

Mr. HITCHCOCK. Yes; we need the additional authorization.

Mr. SNAPP. Is there any office in the country where they are employing carriers in that way?

Mr. HITCHCOCK. There are many offices where we constantly employ substitute carriers, but under that system a man has no assurance that he will be employed from day to day. The substitute carrier never knows when he reports in the morning that he will be called upon to serve that day. It depends entirely upon the absence of regular employees. The auxiliary, on the other hand, would be employed each day regardless of absences.

Mr. STAFFORD. In some of the offices you are obliged to distribute the service among the substitutes so as to provide a more or less equitable payment to those on the substitute list who are then in the service?

Mr. HITCHCOCK. That is a very common plan. The daily service is distributed, as Mr. Stafford says, among a number of substitutes; one will work this day and another that day, and no one has any assurance that he will be given a definite amount of employment from day to day. It is a precarious employment.

Mr. SNAPP. Are we to understand that there is no post-office in the country now where carriers are employed as you describe the auxiliary carriers are intended to be employed?

Mr. HITCHCOCK. I am not aware of an auxiliary carrier service in operation at any office in exactly the manner we propose.

Mr. SNAPP. Well, to this extent, is it in operation in any office to the extent of having carriers report regularly at the same time or at other times each day.

Mr. HITCHCOCK. It is a common practice to have a number of substitutes report regularly at certain times, and if regular employees are absent their work is performed by such substitutes. But under that system no substitute is assured that he will be steadily employed. He can serve only for a regular employee who is absent.

Mr. SNAPP. Who determines which substitute shall be employed?

Mr. HITCHCOCK. The postmaster has the authority, but as a matter of practice the superintendent of city delivery generally makes the selection. The auxiliary plan has another object, and that is to afford a training school for the regular service. Auxiliaries could be appointed with the understanding that their probationary periods should run from the time of their appointment. Under this plan they could complete their probationary periods while serving as auxiliaries and become eligible for permanent appointment.

Mr. SNAPP. If this classification should be made as you recommend, it would be necessary for the Department, would it not, to direct the postmasters selecting the auxiliary carriers from among the substitutes to select the same ones to report at the same time, or at fixed times, each day? If that is so, why could not the Department now direct each postmaster selecting substitute carriers to select the same ones from day to day.

Mr. HITCHCOCK. That could be done, of course—

Mr. SNAPP. If that is a good thing to do why has not the Department done it in the past, if there is nothing to prevent it?

Mr. HITCHCOCK. That could be done, of course, providing there was steady work; but substitutes only take the place of absent employees. I did not mean to give the impression that the auxiliary service was similar to the substitute service in that respect. There is no substitute work except when regular employees are absent.

Mr. SNAPP. Do you mean that it would be the purpose of the Department to employ these auxiliary carriers a certain time each day whether there was work for them or not?

Mr. HITCHCOCK. No; I do not mean that. As I have already stated, the work is heavier ordinarily during certain parts of the day. The first delivery of the day, for example, is usually the heaviest, and if the regular force of carriers could be augmented for an hour or so at that time, it would be possible to work the delivery more promptly. If the force is not temporarily augmented at the time when the principal stress occurs, it will be necessary to appoint more regular carriers so as to have a sufficient number constantly available to handle promptly the heaviest mails of the day.

Mr. SNAPP. Is there no way, no authority now, for the Department to take care of the work that you say occurs regularly at certain times of the day?

Mr. HITCHCOCK. There is no authority in satisfactory form to augment the carrier service regularly for a portion of each day.

Mr. SNAPP. What happens to the service, then; is the mail undelivered?

Mr. HITCHCOCK. Either the delivery of the heaviest mail is regularly delayed, or additional carriers are appointed. In order to have a sufficient force available at the period of the day when the work is heaviest, the quota of regular carriers is sometimes larger than appears necessary during the remainder of the day.

Mr. SNAPP. I don't think I quite understand you. Do you mean that now additional carriers are being appointed to take care of this work at the heaviest period of the day, or is the mail, on that account, undelivered and returned to the office?

Mr. HITCHCOCK. It is one thing or the other. The postmaster naturally applies for additional carriers when his heaviest delivery is slow.

The CHAIRMAN. If he gets his additional carriers, then the mail is taken care of; and if you can not give him additional carriers, he can not deliver the mail as promptly.

Mr. HITCHCOCK. That is the point. I maintain that if we can employ regularly these auxiliary carriers for two hours each day, it will enable us to make a prompt delivery of the heaviest mails without employing an equal number of additional regular carriers who would be on duty all day. To a certain extent auxiliaries will answer the purpose just as well as the same number of regular carriers.

Mr. SNAPP. By additional carriers do you mean regular carriers on duty for the full eight hours?

Mr. HITCHCOCK. Yes, sir.

Mr. SNAPP. Then there is no system now in practice by which during those periods of heavy work temporary carriers can be put on to take care of it?

Mr. HITCHCOCK. There is no system now by which that purpose can be satisfactorily accomplished.

Mr. SNAPP. Can it be done at all without additional authority?

Mr. HITCHCOCK. To put on carriers for a regular period of two hours daily throughout the year is what we wish to accomplish by this auxiliary plan.

Mr. SNAPP. I understand that.

The CHAIRMAN. And which you do not now feel you have the authority to do.

Mr. HITCHCOCK. We have no authority to give such employees the steady employment they should have in order to induce them to serve.

Mr. SNAPP. I understand that you think you have not authority to do it. I am trying to find out, Mr. Hitchcock, whether the Department has been in the habit of doing this, either with or without authority, of putting on men from day to day during the periods of heavy work.

Mr. HITCHCOCK. It has not been in the habit of doing it in that manner—for a definite period each day.

Mr. SNAPP. Has it been in the habit of doing it in any manner?

Mr. HITCHCOCK. No; it has not, so far as the carrier service is concerned. The temporary carriers are generally employed to meet unusual conditions that last a few days; that is, they are employed by the day for emergency service, as at election time and in the holiday season. Occasionally they are employed in this manner for a portion of a day, but not regularly.

The CHAIRMAN. But not for regular periods each day?

Mr. HITCHCOCK. No; not for a definite period each day. Mr. Chairman.

Mr. STAFFORD. Extending over the year, or a long stated time?

Mr. HITCHCOCK. Not in the manner we propose.

The CHAIRMAN. I want to ask you what rule, if any, there is in the Department relative to any requirement of service of a letter carrier for exactly eight hours a day's work?

Mr. HITCHCOCK. That matter is regulated by statute.

The CHAIRMAN. I want to inquire whether there is any rule of the Department other than the statute?

Mr. HITCHCOCK. There is no rule, so far as I know.

The CHAIRMAN. Complaint has been made to me by individuals that oftentimes a letter carrier will come within a very limited distance of their residences, and finding by examination of his watch that his eight hours is almost up, will turn back without taking the few additional steps, and return mail to the office for subsequent delivery which might have been delivered in two or three minutes additional time; and that upon complaint being made they were informed that the Department required a carrier to report back to the office within such a specific time that it was impossible for him to have taken those additional steps to have delivered that mail. What have you to say relative to any such rule?

Mr. HITCHCOCK. As I understand it, that results from the construction the Department places upon the law.

The CHAIRMAN. Do you not think, Mr. Hitchcock, that the specific eight-hour-a-day law as applied to city letter carriers really works an injustice to the patrons of the office?

Mr. HITCHCOCK. It frequently works a great injustice to the patrons of the office.

The CHAIRMAN. Would not a limited number of hours for a full six-day week be better than a specific eight-hour day?

Mr. HITCHCOCK. That is precisely what I recommend in my report.

The CHAIRMAN. Then if a carrier happened to take a little more time and a few more steps to deliver a little more mail, and have it delivered properly, if he should overreach the eight hours of that day he would get credit for it before the end of the week. That would work better, undoubtedly, would it not?

Mr. HITCHCOCK. I favor very strongly that change in practice. In the case you describe, if it happened to be the last delivery of the day, the letters would be carried back to the post-office and would not reach the addressees until the following day.

DELIVERY OF MAIL IN FLATS AND APARTMENT HOUSES.

Mr. GOEBEL. If your views are going to be carried out, are you going to rescind this order:

Letter carriers are not required to deliver mail to suits or rooms in apartment houses. If boxes are not provided in front hall on the lower floor, arrangement should be made with the janitor or some responsible persons to distribute the mail to the occupants of the building.

What was the reason for that rule, Mr. Hitchcock?

Mr. HITCHCOCK. The reason for that rule, as I understand it, is this: If the carriers are required to make such deliveries throughout

the city it will be impossible for us to conduct the service with the present force.

The CHAIRMAN. On account of the large amount of time that the carrier would consume in visiting each room in an apartment house?

Mr. HITCHCOCK. Precisely that.

Mr. GOEBEL. Then the question arises as to whether the force ought not to be increased.

Mr. HITCHCOCK. The Department could make such deliveries if we had a sufficient number of men; but in my judgment it would be unwise to adopt the plan. It would seem to be far more important for us to extend the city delivery service in other directions than to make deliveries from room to room in apartment houses.

Mr. GOEBEL. Why, Mr. Hitchcock? The person is entitled to his mail. Now, so why should there be a distinction between those who live in flat buildings and those who do not live in flat buildings?

Mr. HITCHCOCK. Under the city delivery system a man is entitled to his mail at the street door.

The CHAIRMAN. That is the rule upon which the letter-carrier service is established. It is a house delivery and not an individual delivery.

Mr. HITCHCOCK. It is a delivery from house to house; the mail is delivered at the doors of residences.

Mr. GOBEL. Why not then apply that with reference to offices in large buildings? Our letter carriers begin at the top of those buildings and go down. Why do you make a distinction there?

Mr. HITCHCOCK. Yes, that is the practice.

Mr. GOEBEL. That is being done; that is the rule, is it not?

Mr. HITCHCOCK. It is a question whether that was originally contemplated by the law, but the practice now prevails.

The CHAIRMAN. Is not that based upon the theory that business mail is more important than social mail?

Mr. HITCHCOCK. That is undoubtedly the reason.

Mr. STAFFORD. Even in some business houses, where there is a much heavier mail, there is a rule which restricts a carrier from going up beyond a certain number of stories.

Mr. HITCHCOCK. Yes; in such cases business men usually provide boxes on the lower floor.

Mr. GOEBEL. Why should the Department discriminate between business and private mail; what does the Department know as to whether it is important or not? Is it not the theory that the Post-Office Department is to deliver your mail?

The CHAIRMAN. Judge Goebel, do you think it would be the province of the Government to deliver mail to my library in my residence instead of to a servant at the door?

Mr. GOEBEL. If they deliver to a servant it is delivered. In this case you make no delivery to anybody. They put it on the first floor, or deliver it to a janitor, or anybody who takes charge of it.

Mr. SNAPP. That is so in the rural service.

Mr. GOEBEL. But they furnish boxes.

The CHAIRMAN. The Government does not furnish boxes in the rural service. Let the occupant of the flat furnish the boxes.

Mr. GOEBEL. But why do you make a distinction between those living in flat buildings and other persons?

Mr. HITCHCOCK. It is because of the reason the chairman gave—namely, that the mail addressed to offices of that character is usually more important than the mail addressed to residences.

Mr. GOEBEL. Is it more important to a business man than it is to me as an individual? Why do you determine the importance of the mail?

Mr. HITCHCOCK. I should say that business mail is usually more important than the mail that goes to residences.

Mr. SNAPP. And more likely to be received regularly in large quantities.

Mr. GOEBEL. That is assuming that it is of importance. But it is not for the Department to determine whether a particular letter is of importance or not; it is for the Department to deliver that letter. The delivery does not depend upon the importance of it.

Mr. SNAPP. Do you not think that business mail is, on the whole, much more important than the mail that goes to residences?

Mr. GOEBEL. I would not concede that. When a letter is addressed to me with a 2-cent stamp upon it, I am entitled to the delivery of that letter.

Mr. FINLEY. The number of deliveries each day, I think, settles the propriety of the practice that business mail is more important than personal mail.

Mr. GOEBEL. Not more important; it is because you have the mail to deliver.

The CHAIRMAN. Why should not the Government authorize the carrier having a letter addressed to an individual in Cincinnati to keep on going until he finds him and deliver it to him in person?

Mr. GOEBEL. If the letter is addressed to me at Cincinnati, it should be delivered at Cincinnati, and that is all they are expected to do. They do not follow me up. But, in apartment houses, four, five, six, or seven stories high, the people are not getting their mail.

The CHAIRMAN. Perhaps they have no elevators.

Mr. GOEBEL. What I am trying to get at is why do you make, Mr. Hitchcock, a distinction between that kind of mail and the mail that goes into office buildings?

Mr. HITCHCOCK. The public demand usually settles such questions. There has been a very urgent demand for deliveries to business offices, a much more insistent demand than we have had from the inhabitants of apartment houses, and the Department has yielded to the stronger demand.

Mr. SNAPP. Allow me to say that an office building in Chicago, the Monadnock Building, has a post-office with carriers, who deliver mail only in that building; a large office with a number of carriers. Would you say, Mr. Goebel, that that service ought to be stopped unless a like service can be extended to flat buildings and apartment houses?

Mr. GOEBEL. No; I am simply saying that the Department has no right to make a distinction between a flat building and an office building.

Mr. SNAPP. Would you say that a service like this in the office building I have described, where the business was tremendous, ought to be discontinued unless like service can be extended to flats and apartment buildings?

Mr. GOEBEL. I say this, that when a letter is addressed to an individual at the proper address that that letter ought to be delivered to him and not delivered to someone else. I do not want to scare you, but here is a petition on that subject complaining bitterly of this order; and what I was trying to get at, and what I want to know is, whether that was the true reason, that you did not have enough carriers. Is not that the real reason for it, and that it would take up too much time?

Mr. HITCHCOCK. That is the reason why it is now impracticable.

Mr. GOEBEL. That was the reason why it could not be carried out.

Mr. HITCHCOCK. It would be impossible to do it with our present force.

The CHAIRMAN. Would it be impossible to do it with a 25 per cent increase of force—that is, a 25 per cent increase in force of cities of the first class, or even a 50 per cent increase?

Mr. HITCHCOCK. I should think it would take at least a 25 per cent increase.

The CHAIRMAN. So that it would be wholly impracticable without almost doubling the force in some cities, would it not?

Mr. HITCHCOCK. It would require a large increase in the force, and therefore would naturally interfere with the extension of city delivery service in other directions where it is more needed, as in urban districts where people do not have free delivery at present. The occupants of apartment houses can readily arrange with the janitors to carry their letters up to them, or they can have them placed in boxes on the lower floor within easy reach by elevator. To people who live in the outskirts of the city and would otherwise have to walk a considerable distance in order to get their mail, a delivery service is more essential. It is to such people that the city delivery service should be first extended.

Mr. SNAPP. Am I wrong in understanding that it is in the discretion of the postmaster—that if he has force enough he can have his carriers deliver this mail? I have been told by a postmaster in a large city within a day or two that it is the practice in his office to try and make one such delivery during the day, but that other deliveries have to be generally made at the door.

Mr. GOEBEL. Please let me ask you this. Take, for instance, a flat building that has 50 apartments and 50 families living in it. If each family lived in a separate house the letter carrier would have to deliver at 50 different doors, would he not, and he would have to go a great distance in making that delivery. Would he not really save time by delivering that to the 50 families living in one house?

Mr. HITCHCOCK. Yes; but the people residing in the 50 houses would have to walk a considerable distance in order to get their mail if the carrier did not make the delivery to them, whereas in the case of the apartment house the mail is brought within convenient range.

Mr. GOEBEL. But you do not answer my question. Would not the letter carrier save time by delivering the mail at each door in the one building than if he had to take that to the doors of 50 separate houses?

Mr. HITCHCOCK. It would depend upon the nature of the houses. If they are side by side, as is usually the case in New York City, so that the carrier simply steps from one door to another, it might be

just as easy for him to make the delivery on the street as to proceed from floor to floor in the apartment building.

Mr. GOEBEL. Then the question of time cuts no figure—that is what I am saying. Therefore I ask you why is it now that these people are not entitled to delivery?

Mr. HITCHCOCK. I do not mean to say that “the question of time cuts no figure.” The carrier now delivers all the mail at the door of the apartment house, and that naturally saves time.

Mr. GOEBEL. Yes, for 50 families at the door, then goes away. Now the occupants of these houses come down and get their mail from the janitor or to whoever the carrier delivers the mail.

Mr. HITCHCOCK. They usually have boxes.

Mr. GOEBEL. Now, then, he gets rid of 50 families in that way. If he had to distribute that along the streets to 50 families would it not take a longer time than if he had to deliver it to each family in a building?

Mr. HITCHCOCK. I think that ordinarily it would take a longer time.

Mr. GOEBEL. Then the question of time does not enter into this proposition at all?

Mr. HITCHCOCK. Your comparison is between a single delivery for 50 families in an apartment house and a delivery to 50 families living in separate houses. Of course there would be a considerable difference in the time required.

Mr. GOEBEL. You must have a reason for the rule, and I was trying to get at your reasons for that rule.

Mr. HITCHCOCK. The reason for the rule is that we are unable to make such deliveries in all apartment houses throughout the cities having free delivery, and in order to administer the service with fairness it seemed best to prohibit altogether that form of delivery. It did not seem wise to discriminate in favor of one apartment house as against another.

Mr. GOEBEL. Of course, that applies to all apartment houses; there is no discrimination between the houses; that is not what they are complaining about. What they are complaining about is that they are not having the delivery.

Mr. HITCHCOCK. With the present carrier force it would be quite impossible, for instance, to make such deliveries in all apartment houses throughout the city of Cincinnati.

The CHAIRMAN. If I understand, Mr. Hitchcock, whether it is practicable or impracticable, whether it is wise or unwise, it is wholly impossible to do it with your present force.

Mr. HITCHCOCK. There is no question about that.

Mr. GOEBEL. Suppose there were no flat buildings, and you were obliged to distribute it to 50 separate houses.

Mr. HITCHCOCK. In that case, I should say that the delivery ought to be made.

Mr. GOEBEL. Then you would have the time?

Mr. HITCHCOCK. If we did not make delivery to the 50 houses the residents would have to walk some distance to a post-office, or to the nearest postal station. But in the case of the apartment house, delivery is made at the street entrance within easy reach of the occupants.

Mr. GOEBEL. But let us confine ourselves now to the city of Cincinnati. Let us suppose that there are no flat buildings, and that this mail would have to be delivered to 50 separate houses. Then the question of time, whether it was expedient, or whether it was wise, or any other consideration would not enter into it, because you would make the delivery.

Mr. HITCHCOCK. Of course we should be obliged to make the delivery to the houses.

The CHAIRMAN. You would not be obliged to make such deliveries unless you had the force. After all, the practical side of it is based upon the number of carriers which you are given by authority of Congress. If Congress doubled your force and directed you to employ all of them, you would try to find work for them.

Mr. HITCHCOCK. That is the condition that controls.

The CHAIRMAN. And with the force you have you try to serve the largest number within proper limitations of time.

Mr. HITCHCOCK. That is our policy.

The CHAIRMAN. It seems to me that is a good enough reason for the rule under existing authority of Congress.

RESIGNATIONS OF LETTER CARRIERS.

Now, I would like to ask you about the resignations of carriers during the past year.

Mr. HITCHCOCK. On page 9 of my report I refer to the numerous resignations that have been occurring and present some statistics on the subject.

The CHAIRMAN. Please state them briefly, so that they may be in the record.

Mr. HITCHCOCK. At offices of the first and second classes having city delivery, there were in round numbers 23,000 letter carriers in the last fiscal year, and of these 601 resigned, or 2.6 per cent.

The CHAIRMAN. What were the general reasons for the resignations that came to your notice?

Mr. HITCHCOCK. The general cause of resignations was inadequate compensation—

The CHAIRMAN. How do you arrive at that cause?

Mr. HITCHCOCK. Or the ability of employees to obtain higher compensation in other lines of employment.

The CHAIRMAN. What is your source of information?

Mr. HITCHCOCK. I arrive at that conclusion as the result of a statistical inquiry addressed to all first and second class offices. I sent a circular to the postmasters asking them to give the number of resignation for both clerks and carriers, with the grades from which the employees resigned, and to state how many of the resignations occurred because of inadequate compensation. Some of the replies, as was natural, proved to be a trifle ambiguous, and consequently I was unable to make up a statistical statement showing the exact number of employees resigning to obtain better pay. But the inquiry showed very plainly that the principal portion of the resignations had been due to the question of compensation.

The CHAIRMAN. Were these resignations during the fiscal year general, or was there a greater number in some sections of the country?

Mr. HITCHCOCK. The resignations of carriers were distributed pretty generally, although I think there were proportionately more on the Pacific coast than in any other section of the country.

The CHAIRMAN. Did the per cent of 2.6 apply about equally as to resignations from second-class offices, and also from first?

Mr. HITCHCOCK. I think that there may have been more resignations from second-class offices proportionately than from first-class offices, but that could be explained by the lower maximum compensation at second-class offices, or rather at offices in cities of less than 75,000 population.

The CHAIRMAN. Have you any statistics concerning such resignations of carriers during the quarter ending last September 30?

Mr. HITCHCOCK. During that quarter 205 carriers resigned, or 3.5 per cent.

The CHAIRMAN. Your report, I believe, includes the four months—the full quarter, and including October. If it included the month of October, in addition to the full quarter, your statistics are based upon four months?

Mr. HITCHCOCK. No; the annual rate for the quarter was 3.5 per cent, while the annual rate for the month of October was 4.1 per cent, showing a rapid increase.

The CHAIRMAN. Were the causes for such resignations generally similar to the causes for the fiscal year 1906?

Mr. HITCHCOCK. The same cause was given as a rule.

The CHAIRMAN. In this connection I will be glad if you will give any similar statistics which you may have relative to resignation of clerks in offices of the first and second class.

Mr. HITCHCOCK. During the last fiscal year 12 per cent of the clerks in the grades ranging from \$600 to \$1,000 in first and second class offices resigned, or 2,340 out of about 20,000 clerks. During the quarter ended September 30, 929 clerks resigned, and during the month of October 356 clerks resigned. The annual rate of resignations for the quarter was 19 per cent, and during the month of October 21 per cent.

The CHAIRMAN. What do you mean by the annual rate; do you mean the per cent of resignation for that particular period of time?

Mr. HITCHCOCK. I mean that if proportionately the same number of resignations had occurred throughout the entire year that percentage of the total would have resigned. I have to use the annual rate in order to make the comparison, the periods being of unequal lengths.

The CHAIRMAN. Were the resignations from either class, first or second class offices, greater in proportion than the average per cent of resignations—that is to say, was there a greater proportion of resignations from the second class as against the first class, or a great proportion in the first-class offices?

Mr. HITCHCOCK. I do not think that there was much difference in the proportion.

The CHAIRMAN. Was there any greater proportional number of employees resigned from one section of the country more than another, or was this per cent rather general throughout the country?

Mr. HITCHCOCK. Resignations have been pretty general throughout the country. I recall this fact, however, that on the Pacific coast

more high-salaried clerks appeared to be resigning than in the Eastern cities.

The CHAIRMAN. Do you mean salaries of clerks under \$1,500 or above \$1,300?

Mr. HITCHCOCK. Ranging up to \$1,000 and \$1,200.

AUXILIARY LETTER-CARRIER SERVICE AGAIN.

Mr. STAFFORD. To provide for what you consider the necessary authorization to establish the so-called "auxiliary" service, would the insertion of the word "auxiliary" in the phraseology embodied in your proposed amendment be construed by your Department as authorizing that kind of service?

Mr. HITCHCOCK. Do you refer to the appropriation bill or to the proposed classification bill?

Mr. STAFFORD. The appropriation bill.

Mr. HITCHCOCK. In that bill we provide for it in the clause that reads, "including auxiliary, substitute, and temporary carriers."

Mr. STAFFORD. I asked if you consider that sufficient authorization, if we included that word, to warrant you in establishing the service along the lines you suggested, or would some kind of special authorization be needed.

Mr. HITCHCOCK. In order to develop that service as we desire, we should require also the authorization that would be granted by the proposed classification bill.

HORSE-HIRE ALLOWANCE AND RENTAL AND PURCHASE OF VEHICLES.

The CHAIRMAN. In the item appropriating for horse-hire allowance you ask for an increase of \$25,000, or 3.44 per cent. Is that increase due entirely to probable increase in the service, or for the purpose of a larger allowance for horse hire?

Mr. HITCHCOCK. It is due largely to the Department's plan of developing automobile-collection service.

The CHAIRMAN. Is that what you mean by the additional words: "And the rental and purchase of vehicles?"

Mr. HITCHCOCK. That clause is intended to cover the automobile service.

The CHAIRMAN. If the committee should not add the authority for rental and purchase of vehicles, how much less than the \$25,000 increase would be necessary?

Mr. HITCHCOCK. We feel that the \$25,000 increase would be necessary in order to enable us to carry out our plans, whether you add that wording or not.

The CHAIRMAN. I understood you to say in answer to my question as to the necessity for the increase, that it was largely to carry out your plans. Now, I want to know how much less—

Mr. HITCHCOCK. I see that I misunderstood you. We believe that we have the authority under the original wording of the item and therefore we could use the \$25,000 increase whether or not you insert the new clause.

The CHAIRMAN. Have you made any rental or purchase of vehicles during the present year?

Mr. HITCHCOCK. We have rented motor vehicles under that appropriation.

The CHAIRMAN. What character of vehicles?

Mr. HITCHCOCK. Automobile-collection vehicles.

The CHAIRMAN. Out of what fund would that rent be paid?

Mr. HITCHCOCK. Out of what is called, "Horse-hire allowance."

The CHAIRMAN. That is what you mean by the statute to which you referred as giving you authority.

Mr. HITCHCOCK. After careful consideration, we decided that the original appropriation was broad enough to warrant such expenditures, but nevertheless we believe it would be better to insert that additional clause, making the authority more specific.

The CHAIRMAN. To make clear the authority.

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. So that your need for the \$25,000 is not based exclusively on the rental of automobiles.

Mr. HITCHCOCK. It is based chiefly on our desire to rent automobiles.

The CHAIRMAN. If the committee should determine that that character of service is unwise and so limit the phraseology that you could not rent automobiles, then do I understand that the \$725,000 would be ample for the horse-hire allowance?

Mr. HITCHCOCK. In that event I think the appropriation should be increased by about \$10,000. I think the original estimate is a trifle too low.

The CHAIRMAN. Then will you explain to the committee what advantages there are to service, and what economies if any may be practiced, by the use of automobiles in the collection and distribution of city mail.

Mr. HITCHCOCK. The great advantage, of course, is the speed with which collections can be made.

The CHAIRMAN. Do you find any economy in the discontinuance of horse-hire allowance where a larger territory is covered by the automobiles?

Mr. HITCHCOCK. I was about to say also that economy results from the discontinuance of horse-hire allowance.

The CHAIRMAN. How many territories covered by the usual horse-hire allowance can be covered by an automobile allowance?

Mr. HITCHCOCK. We believe that an automobile properly constructed for that kind of service will replace about three ordinary collection carts.

The CHAIRMAN. What is the allowance for an ordinary collection cart?

Mr. HITCHCOCK. In Baltimore we were paying \$450.

The CHAIRMAN. For each cart?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. Would the automobile allowance at Baltimore be less or more than three allowances for collection carts of the ordinary character?

Mr. HITCHCOCK. The amount of rental we pay for the two automobiles in Baltimore is \$1,800 each.

The CHAIRMAN. And three allowances of \$450 each would be \$1,350.

Mr. HITCHCOCK. Yes, sir; but you must remember that with the automobile only one carrier is needed, whereas with the three carts we require three carriers.

The CHAIRMAN. Then there would be two carriers discontinued.

Mr. HITCHCOCK. Yes, sir. We save two carriers.

The CHAIRMAN. At what compensation?

Mr. HITCHCOCK. The compensation in Baltimore would range from \$600 to \$1,000—\$800 could be taken as an average.

The CHAIRMAN. Then one automobile at the rate of \$1,800 a year would displace three ordinary collection carts and two carriers?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. Which would result in a saving of from two to five hundred dollars; would it not?

Mr. HITCHCOCK. I figure out a saving of about \$1,100 on that basis.

The CHAIRMAN. And result in more efficient service and more frequent service.

Mr. HITCHCOCK. Unquestionably so.

The CHAIRMAN. Where have you experimented with this character of service?

Mr. HITCHCOCK. Only in the city of Baltimore thus far. On the 1st of October we started the service there with two automobiles, but the cars provided were not as satisfactory for the purpose as we expect to have later. Here is the style of automobile used in Baltimore [handing photograph to members of the committee].

Mr. SNAPP. Is it electric or gasoline?

Mr. HITCHCOCK. They are gasoline.

The CHAIRMAN. Does the rental charge include a driver?

Mr. HITCHCOCK. The rental charge covers everything. I purposely made the contract to cover all expense and bound the lessor to replace immediately any automobile that breaks down. He is required to keep the cars in constant repair.

The CHAIRMAN. Such contract includes the carriage of one carrier who attends to the collections.

Mr. HITCHCOCK. That is the practice in Baltimore. We have only one carrier on the car.

The CHAIRMAN. Are those cars used exclusively in collections?

Mr. HITCHCOCK. The two cars in Baltimore are used exclusively for that purpose. We are planning to introduce some automobiles for the collection of heavy package mail in the business districts of cities, and these automobiles will be of a somewhat different pattern. They will be heavier and less speedy than the cars used in Baltimore.

The CHAIRMAN. If you work out an economy of \$1,100 to the automobile, why would not the provisions for the rental of such vehicles result in a less appropriation than if no such provisions were made.

Mr. HITCHCOCK. The increase of \$25,000 over the original estimate, if properly applied to automobile service, ought to save more than that amount in the expenditures for compensation and allowances to carriers.

The CHAIRMAN. You said a while ago that if the use of such vehicles were prohibited it would only require about \$710,000, but if such use were permitted and authorized it would require the \$750,000.

Mr. STAFFORD. Did he not say it would require \$10,000 additional?

The CHAIRMAN. He said \$10,000 instead of \$25,000; in other words, I understood you to say that it would take \$15,000 less if the authority were denied than if it were granted. Now I want you to harmonize that with your explanation that the use of the automobile

works economy of about \$1,100 to the automobile as compared with the service of the ordinary regulation cart.

Mr. HITCHCOCK. Possibly I misunderstood your inquiry when I said that if you did not grant the \$25,000 increase it would be advisable to increase the appropriation over the original estimate by \$10,000. In making that suggestion I had reference simply to the extension of the collection service in the old way. I did not intend to include the automobile service.

The CHAIRMAN. You recommended this morning in this draft that you submitted earlier, an estimate of \$50,000 increase for this service, as against \$25,000 increase in your original estimate; is that correct?

Mr. HITCHCOCK. Yes, sir; \$50,000 instead of \$25,000.

The CHAIRMAN. Yes; and that if you were denied the authority for the rental of automobiles you would still have a \$35,000 increase.

Mr. HITCHCOCK. The original increase of \$25,000 had no reference to automobile service. That estimate was made some time ago.

The CHAIRMAN. That does not change my inquiry, nor my conviction that if the use of automobiles will result in an economy of \$1,100 to the automobile, which displaces three carts and two carriers, why you will not require a less appropriation if you have the authority for the automobiles than if you do not have it.

Mr. HITCHCOCK. Part of the saving would be made in the appropriation for compensation to carriers. You are counting all the saving against the appropriation for horse hire, when as a matter of fact there would be no saving in this appropriation. The rental of an automobile would be \$1,800, while the three horse carts would cost only \$1,350.

Mr. SNAPP. I understand, Mr. Hitchcock, that you construe this as giving you authority at present to rent or purchase automobiles for this service. Has that authority been passed upon yet by the Comptroller?

Mr. HITCHCOCK. No, sir; because the accounts have not been submitted. A question of this kind is not passed upon by the Comptroller until it goes up to him as a matter of accounting.

Mr. SNAPP. If there should be included in this bill the words, "and the rental and purchase of vehicles," is there not some danger that the Comptroller would say that that was Congressional or legislative construction of this clause against the Department having such authority under the present law for the current year? It would seem to me to be a plain legislative construction against your authority.

Mr. HITCHCOCK. The authority we have exercised under that clause is merely the authority to rent. We have not made any purchases.

Mr. SNAPP. It does not make any difference. You are renting a vehicle not mentioned in that clause, and putting it in that language in this appropriation bill seems to me to be a legislative construction against the construction that you have placed upon this current law.

The CHAIRMAN. And that if he believes that he already has the authority he should leave the language as it is.

Mr. SNAPP. Yes; it would be better to leave the language out of the appropriation act for 1908, it seems to me.

Mr. MOON. But suppose he had not the authority under the present law, then we ought to put some language in here that would not only be authority, but ratify what is already done.

The CHAIRMAN. Would it not be better to arrange the phraseology so as to read: "For horse hire and vehicle allowance?" Then you simply make an allowance either for horses, vehicles, or both.

Mr. HITCHCOCK. For years the appropriation has been expended in that way, and the accounts have passed without question.

The CHAIRMAN. We simply would insert the new word "vehicle."

Mr. HITCHCOCK. Possibly that is a good suggestion, so far as the authority for renting is concerned.

The CHAIRMAN. That might avoid the criticism which Mr. Snapp makes, and which I think is well worth considering—the possibility of a construction that they had not any such authority heretofore.

Mr. STAFFORD. Under the former practice you make no direct rental for the collection cart, but made allowances to postmasters who in turn made allowances to individual collectors at so much for the use of the wagon.

Mr. HITCHCOCK. That is one practice, but we also make annual contracts under which horses and carts are leased for a given period.

Mr. STAFFORD. This item divides itself into two classes of service, one for the mounted carrier service, which is entirely different from the collection service. You do not contemplate the delivery of mail by auto-wagons certainly to houses that are now delivered by mounted carriers.

Mr. HITCHCOCK. Not in that manner, but we have considered the plan of using automobiles to a certain extent in the delivery of mail. Our plan was to convey the carriers in swift automobiles from the post-office to the points where their routes begin. It is believed that much time could be saved by this plan.

Mr. STAFFORD. But the mounted carrier to-day does not do that kind of service, he delivers to the houses individually. Can you give the committee the amount expended last year, the fiscal year 1906, for solely mounted carrier service; and can you at present give us an estimate for the fiscal year 1907 of the amount that will be likely expended for that character of service?

Mr. HITCHCOCK. As distinct from the collection service?

Mr. STAFFORD. Yes.

Mr. HITCHCOCK. No, sir; I can not give it offhand.

Mr. STAFFORD. Will you furnish that to the committee?

Mr. HITCHCOCK. There is one point that occurs to me. The mounted carriers collect mail as well as deliver mail, and therefore it would be difficult to separate the two classes of service.

Mr. STAFFORD. Yes; they collect mail and deliver mail just the same as the foot carriers, but this new character of service is a substitute for the collection service proper, and is entirely separate and distinct from the mounted-carrier service.

Mr. HITCHCOCK. Then you want to know what we expended during the last fiscal year for collection service by wagon.

Mr. STAFFORD. Either one, but I care more for the mounted-carrier service. The committee might have a separate item for mounted-carrier service and another item for horse and vehicle allowance for collection service, because the two characters of service are distinct; and perhaps the committee might wish to segregate that item if there is going to be this new departure in the establishment of automobile service for collection purposes.

Mr. HITCHCOCK. If the committee considers the question of segregating that appropriation I hope it will not make the change in such manner as to require two accounts. I suggest that if you think it wise to separate the fund for mounted carriers from the general appropriation, you do it by means of a proviso that will not require two accounts.

Mr. STAFFORD. You can readily see how the committee might wish, not only this year, but in years to come, to make a more liberal allowance for the extension of the collection service by means of automobiles, and could not express it except in that way, by segregating or by means of a proviso.

Mr. HITCHCOCK. Don't you think it would be better to wait until the automobile service has become more definitely established? When it has gone beyond the experimental stage we can figure a little more closely as to the probable amount of appropriation required.

Mr. STAFFORD. You can figure on the probable amount, and you can make an estimate as to the probable amount for mounted-carrier service. There is going to be a change of amount required for that service. My original question was merely to ascertain how much money has been expended in the fiscal year 1906 for that character of service and what you estimate will be expended this fiscal year.

Mr. HITCHCOCK. We will prepare such a statement.

The CHAIRMAN. Referring to your suggestion of a moment ago regarding the wording of this item, I think it is a good one, but is it not desirable to include also the authority for purchase? I submit that that would naturally eliminate the authority for purchase, but don't you yourself think that so long as this service is in a purely experimental stage that it is better to make the experiment by rental rather than by purchase?

Mr. HITCHCOCK. I do most assuredly, and that plan has been followed in every case, but later it might be advisable to purchase.

The CHAIRMAN. Even though it might ultimately become advisable to add the authority to purchase, it is not advisable to add such authority at this time. You could soon consume your appropriation if you began the purchasing of automobiles.

Mr. SNAPP. The success of this automobile service that is now being experimented upon will eventually result in separating from the service, practically, two-thirds of the men now employed in collection service, will it not?

The CHAIRMAN. It will result in their assignment to the regular carrier service.

Mr. HITCHCOCK. It will not result in their separation from the service, even if the introduction of the motor vehicle is rapid. As the chairman suggests, they will be assigned to other duties.

Mr. SNAPP. Let me put the question in another way then. The success of this automobile service that is now being experimented with will eventually result, will it not, in decreasing the force now engaged in the collection service by two-thirds?

Mr. HITCHCOCK. It might do so if the city delivery service were to remain stationary, but, no doubt, the service will continue to develop with sufficient rapidity to utilize its full quota of employees. At present the collection service is being extended rapidly from year

to year, and under this growth the gradual introduction of automobiles is not likely to crowd out any employees now serving.

Mr. SNAPP. Well, I don't think an answer to that question is necessary, because it has all been stated and is in the record that the use of each machine results in decreasing by two-thirds the force employed in that service.

Mr. STAFFORD. For the present service, but under this new character of service, by reason of speed attained, the Department might feel warranted in having more frequent collections, in which they are handicapped to-day by reason of the slowness of the horse vehicle, and which would result in the employment of additional men.

Mr. SNAPP. Result in the steadier employment of each machine, and the employment of more machines. The more machines you employ the more men it displaces who are engaged now in this other class of collections.

The CHAIRMAN. How many carriers are now employed in the service to whom the horse-hire allowance is applied for collection purposes?

Mr. HITCHCOCK. I haven't the exact figures with me, but, as I understand it, about 10 per cent of the whole number of carriers are employed in the collection service. Many carriers both deliver and collect mail.

The CHAIRMAN. That would be about how many? About how many carriers are now engaged in the collection service to whom horse-hire allowance is made?

Mr. HITCHCOCK. I will procure the exact figures; I haven't them here.

The CHAIRMAN. Can you give the approximate number?

Mr. HITCHCOCK. There are about 2,300 mounted carriers, and most of them have allowances for horse hire.

Mr. SNAPP. And this service would affect carriers also to whom no allowance is made for horse hire.

The CHAIRMAN. Here is what I want to inquire: Would two-thirds the number of all the carriers now employed in the collection service, and to whom horse-hire allowance is allotted, more than equal the number of new carriers which would probably be employed within a year?

Mr. HITCHCOCK. No; I don't think so.

The CHAIRMAN. In other words, if you installed this method absolutely at one time, and put out of the service two-thirds of the carriers engaged in that particular character of work, would not the total number of carriers so displaced be quickly absorbed in the service in the regular carrier-service work?

Mr. HITCHCOCK. Unquestionably.

The CHAIRMAN. So that the discontinuance of any per cent of carriers of the collection service would not necessarily separate them from the entire carrier service, but would merely result in their employment by being given ordinary routes?

Mr. HITCHCOCK. Yes, sir; to meet the growing needs of the service, and as the use of automobiles would be extended gradually, the probability is that Congress would be obliged to increase the number of carriers from year to year as at present.

The CHAIRMAN. So that practically while it might not result in the separation of the individual carriers from the service, but only from that particular service, it might operate to prevent new men who were eligible for appointment from getting an early appointment.

Mr. HITCHCOCK. It might have that effect, but not to a very large extent, because the automobile service could never replace more than a portion of the present collection service. Automobile-collection vehicles can be utilized to advantage only under certain conditions, as, for instance, in the outlying residential districts of the city, where mail boxes are far apart and the distances over which automobiles can speed are considerable. In the business sections of the city automobiles could not be used in the same manner, because the mail boxes are close together, requiring frequent stops, and also because the streets are frequently congested with traffic, making progress slow.

CAR FARE AND BICYCLE ALLOWANCE.

The CHAIRMAN. The next item is for car fare and bicycle allowance, in which you ask an additional appropriation of \$20,000, or 5.88 per cent increase. Is that due entirely to the growth of the service or for partial use in larger allowances for the same service?

Mr. HITCHCOCK. It is due chiefly to the growth of the service, although in some cases it has been impossible to make as favorable contracts as formerly. It is probable that the rate of expenditure will be increased somewhat.

Mr. SNAPP. That would be for car fare?

Mr. HITCHCOCK. Yes, sir.

Mr. SNAPP. The bicycle allowance ought not to be increased at all?

Mr. HITCHCOCK. That would not be increased. I was referring to the car-fare allowance.

Mr. STAFFORD. Is any of this allowance for bicycles utilized for providing bicycles for special-delivery boys, or limited solely to those in the classified service, such as letter carriers?

Mr. HITCHCOCK. This allowance is utilized for regular letter carriers.

Mr. STAFFORD. Does the Government provide bicycles for special-delivery boys, or do they furnish them themselves?

Mr. HITCHCOCK. The Government does not provide them for the special-delivery boys.

Mr. STAFFORD. Is it the rule of the Department to provide special-delivery carriers with bicycles?

Mr. HITCHCOCK. No, sir. It is not.

Mr. SNAPP. It is being done in some places, is it not?

Mr. HITCHCOCK. Sometimes the boys, as I understand it, use the bicycles of the carriers when they are not otherwise in use. Substitute carriers perform the special-delivery service to a considerable extent.

Mr. STAFFORD. Has the Department made any direct allowance to the special-delivery boys for the use of bicycles?

Mr. HITCHCOCK. Not that I am aware of.

COMPENSATION TO TWENTY-TWO MECHANICS.

The CHAIRMAN. Are you still using the 22 mechanics that are authorized?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. And in the same way that has been the practice heretofore?

Mr. HITCHCOCK. In the same way as described in detail at the hearings of last year.

MARINE POSTAL SERVICE, DETROIT, MICH.

The CHAIRMAN. The marine postal service at Detroit is under contract?

Mr. HITCHCOCK. Yes, sir; and the appropriation asked for is the same as last year. I have suggested a change in the wording of that item, however.

The CHAIRMAN. I observe that you recommend the dropping of the word "For."

Mr. HITCHCOCK. That grew out of the method of stating the various items in the estimates. It is not the change I mean.

The CHAIRMAN. You do not suggest any change with reference to the Detroit postal service, do you?

Mr. HITCHCOCK. The term "marine" seems to be inappropriate. It creates some misapprehension as to the nature of the service. It seems to me that this is a good time to give the item a proper descriptive title.

The CHAIRMAN. It is not necessarily a marine service.

Mr. HITCHCOCK. It is not a marine service, and therefore I suggest a change in the title.

The CHAIRMAN. The suggestion of Mr. Hitchcock is that instead of the language appearing in the first line on page 21, the following language be used: "For Detroit River delivery service at Detroit, Michigan."

Mr. HITCHCOCK. The service consists of a steamboat under contract and six carriers who go out from Detroit on the boat and deliver mail to craft on the river.

The CHAIRMAN. And collect the mail from the passing boats?

Mr. HITCHCOCK. Yes, sir.

Mr. STAFFORD. Do you know when the four-year contract for this service expires?

Mr. HITCHCOCK. I do not happen to know just when it expires; I can look it up, if you desire.

The CHAIRMAN. It is not during the next fiscal year, is it?

Mr. STAFFORD. I believe it will expire during the next fiscal year.

Mr. HITCHCOCK. My impression is from these figures in the skeleton bill that the contract has two years to run.

The CHAIRMAN. The contract amount is \$4,450, but we have usually appropriated an even \$4,500.

Mr. HITCHCOCK. My inference from these figures is that the contract has been running two years. It is a four-year contract.

The CHAIRMAN. Will you be kind enough to advise the committee the exact date of the expiration of the contract?

Mr. HITCHCOCK. Yes, sir.

INCIDENTAL EXPENSES, CITY-DELIVERY SERVICE.

The CHAIRMAN. In the item for incidental expenses of the city-delivery service, what changes, if any, do you recommend?

Mr. HITCHCOCK. I recommend certain verbal changes that seem to improve the language.

The CHAIRMAN. The recommendation which you brought down this morning is as follows:

For all incidental expenses of the city-delivery service, including freight and drayage, on equipment, furniture and supplies, erecting, painting, and repairing letter and package boxes and posts, repairing clocks and other equipment, maps and miscellaneous items, \$45,000.

Mr. HITCHCOCK. There is a trifling change to improve the language.

The CHAIRMAN. And you provide for an additional increase of \$5,000. Is that increase needed for any specific expenditure enumerated or for a general increase in all of those items?

Mr. HITCHCOCK. For a general increase in the expense of the service.

CAR FARE FOR SPECIAL-DELIVERY MESSENGERS IN EMERGENCY CASES.

The CHAIRMAN. You ask for a 20 per cent increase in the item for car fare for special-delivery messengers. Is that simply incident to the growth of the service?

Mr. HITCHCOCK. Yes, sir.

The CHAIRMAN. And not with the view of a higher payment for the service?

Mr. HITCHCOCK. The rate is the same.

FEES TO SPECIAL-DELIVERY MESSENGERS.

The CHAIRMAN. Is your recommendation for a \$125,000 increase in the item for special-delivery messengers simply for the additional service?

Mr. HITCHCOCK. Yes, sir; for additional service.

The CHAIRMAN. That service has grown considerably, has it, in the past year?

Mr. HITCHCOCK. Yes, sir.

Mr. STAFFORD. On what occasions do you allow car fare to special-delivery messengers?

Mr. HITCHCOCK. When the delivery has to be made at a considerable distance, and it would be impracticable to make a prompt delivery without taking advantage of the car lines.

Mr. STAFFORD. What are the regulations concerning the distance that special delivery letters or packages are delivered from the post-offices?

Mr. HITCHCOCK. Such letters or packages are delivered anywhere within the delivery limits of the office.

Mr. STAFFORD. At any place whatsoever within the delivery district of the office?

Mr. HITCHCOCK. Yes, sir.

Mr. SNAPP. What profit is there in that business to the Government beyond the profit incident to the use of the regular postage?

Mr. HITCHCOCK. I will endeavor to furnish that information.

The CHAIRMAN. Please address a letter covering that question.

Mr. STAFFORD. Have you ever considered whether this service would be increased without any additional expense to the Government if a lower rate than 10 cents was charged purely for delivery at the office of deposit?

Mr. HITCHCOCK. I have never given that question any special consideration. On such mail the cost of carriage by railway is saved.

Mr. STAFFORD. And the extra expense incidental to keeping them in separate packages by the railway mail clerk, as the registry letters are kept.

Mr. SNAPP. Do you mean "drop" letters?

Mr. STAFFORD. Special delivery "drop" letters; yes. Have you ever considered whether it is practicable to reduce the charge for this character of service as was expected when it was originally recommended for legislation?

Mr. HITCHCOCK. I have given no special consideration to such questions because they do not pertain to the work of my Bureau. Those are questions that properly belong to the Bureau of the Third Assistant Postmaster-General.

BACK STAMPING OF LETTERS.

The CHAIRMAN. Mr. Hitchcock, in your report you recommend the discontinuance of the practice of back stamping of letters. Is that a law or simply a regulation of the Department?

Mr. HITCHCOCK. If you will pardon me, Mr. Chairman, I do not specifically recommend in my report the discontinuance of back stamping. I give certain reasons why it would be advantageous to discontinue the practice, and I give the results of certain experiments we have made in that direction, but I purposely leave the question open for the present. I state specifically that we have not gone far enough in our experimentation to decide whether it would be a wise thing to discontinue generally the practice of back stamping.

The CHAIRMAN. But do you not state, in connection with your discussion of the practice of back stamping, that if the practice were discontinued it would reduce the labor of a number of clerks?

Mr. HITCHCOCK. Yes, sir; I bring out that point.

The CHAIRMAN. Have you, in your estimate for additional clerks needed for the service during the next fiscal year, taken into account the possibility of the discontinuance of that practice which you have recommended?

Mr. HITCHCOCK. I have not made any change in the estimate on that ground, because of the uncertainty.

The CHAIRMAN. If such practice should be discontinued, would you consider it wise to modify your recommendation as to the number of clerks needed?

Mr. HITCHCOCK. I do not think I should reduce the present estimate, because, as I have already said to you, I consider it a low estimate.

The CHAIRMAN. Well, I again inquire, is the practice of back stamping a mere regulation of the service, or is it a law?

Mr. HITCHCOCK. The practice is a mere regulation; it is required by what is known as a postal regulation.

The CHAIRMAN. And this recommendation in your report is intended to be to the Postmaster-General for a modification of the regulation, rather than to Congress for the modification of any law?

Mr. HITCHCOCK. It is simply a suggestion to the Postmaster-General. My purpose in presenting it in the report was to bring to the attention of postmasters certain advantages that might attend the discontinuance of the practice. At the same time I state certain advantages claimed for the practice, in order that the question may be generally considered pro and con throughout the service. It is a question that should not be hastily decided.

The CHAIRMAN. I thought your suggestions were very good in the main, but I desired to know if in your judgment there should be a modification or discontinuance of that practice it would result in any saving of clerks which might afford a reduction in your estimate.

Mr. HITCHCOCK. It would unquestionably result in a considerable saving of clerks. For example, the suspension of back stamping, as a matter of experiment at Chicago, released thirty clerks, who were immediately assigned to other duties.

RETURN OF UNCALLED-FOR LETTERS.

The CHAIRMAN. On page 29 of your report you recommend a change of law relative to the return of uncalled-for letters. Will you be kind enough to cite the committee to the statute which governs that practice now?

Mr. HITCHCOCK. The act of June 8, 1873, is the law that prescribes the present practice.

The CHAIRMAN. Under the practice I understand the law requires the postmaster to hold a letter for thirty days.

Mr. HITCHCOCK. Yes, sir; he is required to hold the letter for thirty days, although the return address is printed on the envelope.

The CHAIRMAN. The address of the writer?

Mr. HITCHCOCK. Yes, sir; although he knows from whom the letter came he is unable under this law to send it back before thirty days to the man who mailed it.

The CHAIRMAN. That is where it does not state to return within a specific number of days. If upon the envelope which contains the address of the writer there is a request for return in 3, 5, or 10 days, then it is returned?

Mr. HITCHCOCK. Yes; under any conditions such letters are returned.

The CHAIRMAN. But this only applies to letters which contain the address of the writer without the specific number of days it should be held.

Mr. HITCHCOCK. It applies to letters giving the writer's name, or the name of his office, without any directions as to return. Only a small percentage of such letters carry return directions.

The CHAIRMAN. And your recommendation is that that be left to the discretion of the Postmaster-General as to the time? Don't you think it would be better simply to reduce the time to a less number than thirty days rather than leave it to the discretion of anybody?

Mr. HITCHCOCK. No, Mr. Chairman, I think it would be better to place that matter under the control of the Postmaster-General. It

seems to me that it should be treated as an administrative matter. It may be desirable to vary the time as conditions change or even to vary the time for different kinds of mail.

TRAVEL AND MISCELLANEOUS EXPENSES.

Mr. STAFFORD. I would like to direct your attention to the item at the top of page 22. You recommend the omission of the proviso included within the brackets, reading as follows:

Provided, That a sum not exceeding three hundred dollars may be used for the purchase of city directories and books of reference.

Mr. HITCHCOCK. I recommend the omission of the words "city directories," because we no longer have occasion to purchase city directories, except one or two as books of reference. These words crept into the item when city directories were purchased in considerable numbers for the use of the dead-letter office, which was formerly under the bureau of the First Assistant Postmaster-General. As that division is now under another bureau these words are no longer of any special significance.

RETURN OF UNCALLED-FOR LETTERS AGAIN.

Mr. STAFFORD. Under the law which you ask to be amended as to the holding of letters with the name and address of the sender indorsed thereon, in case of misdirection by the sender, you would be obliged to hold them for thirty days?

Mr. HITCHCOCK. The law is mandatory. It would be impossible to return such a letter sooner than thirty days, although the postmaster might know that it had failed of delivery through some careless mistake in address.

Mr. STAFFORD. And you believe that the regulation in that case should be prescribed by the Department rather than enacted into law.

Mr. HITCHCOCK. I believe it would be better to allow the Postmaster-General to prescribe the time, in order to meet varying conditions, just as he prescribes the time for the holding of dead letters.

Mr. STAFFORD. There is no provision at present requiring the postal authorities to advertise any letters whatsoever.

Mr. HITCHCOCK. There is a regulation requiring postmasters to post the lists of unclaimed letters. There is no provision for advertising in the newspapers.

Mr. STAFFORD. Does the posting of unclaimed letters include those that have been misdirected or uncalled for, or simply relate to those directed to the general delivery?

Mr. HITCHCOCK. All letters that can not be delivered are posted in that way.

EFFICIENT SERVICE IN CITIES.

Mr. HITCHCOCK. There is a matter I wanted to mention before we close, and that is the great importance of providing an efficient service in our city post-offices. It is in our large cities that the postal business can be conducted at the greatest profit to the Government. About one-third of the mail posted in cities is local mail, and on such mail there is no transportation charge. It is not carried by the rail-

ways. If the service at a city post-office is efficient it invariably and are more inclined to employ other means of communication. When the service is poor and people have no assurance that a letter will be delivered promptly, they lose confidence in the post-office and are more inclined to employ other means of communication, resorting to messenger, telephone, and telegraph service. I mention this to show how important it is to maintain the efficiency of the city mail service.

The CHAIRMAN. As appears from your report at page 44 the receipts from city-delivery offices in the year 1906 amounted to \$120,852,-097.60, while the expenses for the maintenance of those same offices amounted to \$21,980,632.92, aggregating a profit of almost \$100,000,000 to the Government. Now, your notion is that offices creating such profit to the Government are entitled to better care and the development of more efficient service?

Mr. HITCHCOCK. Yes, sir; and this appropriation that I recommend, aggregating a total increase of five millions of dollars—three millions for offices and clerks and two millions for carriers—will be expended chiefly in the cities. If we fail to maintain efficient service at city post-offices it affects the entire postal service of the country. The city post-offices are the clearing houses of the service at large. They are the centers of distribution. We are expending immense sums of money to provide railway carriage for the mails all over the United States.

We require the railway companies to run their fast-mail trains at a high rate of expense. But unless we have a prompt and accurate handling of mails at our large post-offices, the money expended for swift transportation from city to city does not bring its proper results. If the necessary standard of efficiency is to be maintained in the postal service of our large cities, where so much of the country's mail is handled at one stage or another, the appropriations recommended in the Department's estimates should be granted.

I desire to submit by way of suggestion a draft of a bill embodying the various recommendations I have made for the regulation of the salaries, the annual leave, and the hours of service of post-office employees:

A BILL To classify employees in first and second class post-offices and to regulate their salaries and annual leave.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after June thirtieth, nineteen hundred and seven, employees in first and second class post-offices shall be classified as follows:

Assistant postmasters, salaries not less than forty per cent and not exceeding fifty per cent of the salaries of the postmasters, graded in even hundreds of dollars from eight hundred dollars to four thousand dollars.

Superintendents, assistant superintendents, auditors, assistant auditors, cashiers, assistant cashiers, bookkeepers, private secretaries, stenographers, foremen, assistant foremen, salaries graded in even hundreds of dollars from one thousand three hundred dollars to three thousand two hundred dollars: *Provided*, That the compensation in these grades in each post-office shall be fixed, so far as practicable, in proportion to the amount of business transacted.

Printers, mechanics, and skilled laborers, salaries graded in even hundreds of dollars from nine hundred dollars to one thousand two hundred dollars.

Watchmen, messengers, and laborers, salaries graded in even hundreds of dollars from four hundred dollars to nine hundred dollars.

Clerks and carriers, to be divided into six grades, as follows: First grade, salary six hundred dollars; second grade, salary eight hundred dollars; third grade, salary nine hundred dollars; fourth grade, salary one thousand dollars; fifth grade, salary

one thousand one hundred dollars; sixth grade, salary one thousand two hundred dollars. Clerks and carriers in second-class offices shall be promoted successively to the second and third grades, and clerks and carriers in first-class offices to the second, third, and fourth grades, at the beginning of the quarter following the expiration of a year's service in the next lower grade. No promotion shall be made except upon evidence satisfactory to the Post-Office Department of the efficiency and faithfulness of the employee during the preceding year. The Department may reduce a clerk or carrier from a higher to a lower grade whenever his efficiency falls below a fair standard, or whenever necessary for purposes of discipline. When a clerk or carrier has been reduced in salary he may be restored to his former grade or advanced to an intermediate grade at the beginning of any quarter following the reduction, on evidence that his record has been satisfactory during the intervening period. When a clerk or carrier fails of promotion because of unsatisfactory service he may be promoted at the beginning of the second quarter thereafter or of any subsequent quarter, on evidence that his record has been satisfactory during the intervening period. No promotion shall be made in the clerk or carrier grades except at the beginning of a quarter. Clerks and carriers of the sixth grade shall be eligible for promotion to the higher positions in the post-office.

Auxiliary employees to be paid for actual service at the rate of 30 cents an hour: *Provided*, That such employees shall be required to work not less than two hours daily: *And provided further*, That such employees shall be eligible for appointment as clerks and carriers of the first grade.

Substitutes, to be paid at the rate of thirty cents an hour when serving for absent clerks and carriers: *Provided*, That such substitutes shall be eligible for appointment as auxiliary employees and as clerks and carriers of the first grade.

SEC. 2. That all employees at first and second class post-offices, except substitutes, may be granted leave of absence with pay for not to exceed thirty days in each year, exclusive of intervening Sundays and holidays, under such regulations as the Department shall prescribe.

SEC. 3. That unless demanded by the exigencies of the service letter carriers shall not be required to work more than eight hours on a working day, but in no event shall they be required to work more than forty-eight hours during the six working days of a week. On Sundays and legal holidays they may be required to work such time, not exceeding eight hours, as may be necessary to meet the needs of the service. Legal holidays shall be counted as eight hours regardless of the time of actual service.

SEC. 4. That all acts and parts of acts inconsistent with this act are hereby repealed

The CHAIRMAN. Are there any other questions or statements to be made? If not, this will close the hearings with respect to the First Assistant's office.

Adjourned at 1.30 p. m.

POST-OFFICE DEPARTMENT,
FIRST ASSISTANT POSTMASTER-GENERAL,
Washington, December 17, 1906.

MY DEAR SIR: In compliance with your oral request of the 11th instant I transmit herewith a statement showing the number of clerks by grades in first-class offices, and also the number by grades in second-class offices. The statistics relating to city carriers are being compiled and will be sent you as soon as possible.

Very truly, yours,

F. H. HITCHCOCK,
First Assistant Postmaster-General.

Hon. JESSE OVERSTREET,
Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.

Estimate for compensation of officers and employees, other than postmasters, assistant postmasters and carriers, at first and second class post-offices.

OFFICERS.

1,803 in the grades from \$1,300 to \$3,200..... \$2, 473, 200

CLERKS.

At offices with \$200,000 gross receipts or over:

1,852 at \$1,200	\$2,222,400	
3,461 at 1,100	3,807,100	
2,251 at 1,000	2,251,000	
3,225 at 900	2,902,500	
2,494 at 800	1,995,200	
1,828 at 700	1,279,600	
121 at 600	72,600	
		<hr/>
15,232		\$14,530,400

At other first-class offices:

141 at \$1,200	169,200	
137 at 1,100	150,700	
1,455 at 1,000	1,455,000	
940 at 900	846,000	
674 at 800	539,200	
706 at 700	494,200	
124 at 600	74,400	
		<hr/>
4,177		3,728,700

At second-class offices:

240 at \$1,000	240,000	
1,200 at 900	1,080,000	
923 at 800	738,400	
983 at 700	688,100	
930 at 600	558,000	
		<hr/>
4,276		3,304,500

For additional promotions of clerks required by the advancement of post-offices

50,000

For auxiliary substitute and temporary clerks

a 300,000

For 1,843 additional clerks for fiscal year 1908

b 889,800

For 600 additional clerks—

From February 1 to June 30, 1907

\$150,000

For fiscal year 1908.

360,000

510,000

OTHER EMPLOYEES.

For 1,250 mechanics, printers, laborers, etc.....

803,600

Estimated credit by change of grade.....

\$350,000

Estimated credit from promotions not taking effect at beginning of year.....

400,000

Estimated unused lapsed salary.....

200,000

950,000

Total.....

\$25,640,200

CONTRACT STATIONS.

For the maintenance of contract stations

c \$750,000

a Of this amount it is estimated that about \$100,000 will be expended for substitutes for clerks on vacations, about \$150,000 for temporary clerks for emergency service of all kinds, and about \$50,000 for the introduction of the auxiliary service.

b This amount would cover 1,483 clerks for the full year, but as the allotment of clerks will be distributed throughout the year a much larger number will be actually appointed, probably over 2,000.

c Present number of contract stations, 3,316; estimated number June 30, 1907, 3,500.

Estimate for compensation of letter carriers for the fiscal year 1908 under the new classification.

At offices with \$200,000 gross receipts or over:			
12,059 at \$1,100	\$13,264,900		
1,625 at 900	1,462,500		
942 at 700	659,400		
			\$15,386,800
At other first-class offices:			
402 at \$1,000	402,000		
4,241 at 900	3,816,900		
464 at 700	324,800		
			4,543,700
At second-class offices:			
4,072 at \$900	3,664,800		
511 at 700	357,700		
			4,022,500
For additional promotions of carriers required by the advancement of post-offices			50,000
For auxiliary, substitute, and temporary carriers		a	1,100,000
For additional carriers			500,000
Total			25,603,000
Estimated credit by change of grade		150,000	
Estimated credit from promotions not taking effect at beginning of year		100,000	
Estimated unused lapsed salaries		150,000	
			400,000
Net amount of appropriation needed under new classification			25,203,000
Estimate under present law			23,434,700
Increased cost under proposed law			1,768,300

POST-OFFICE DEPARTMENT,
FIRST ASSISTANT POSTMASTER-GENERAL,
Washington, January 18, 1907.

SIR: With reference to your inquiry at the hearing before the committee on the 10th instant in regard to the proportion of the appropriation for horse hire expended exclusively in the collection of mail, I find that it is impossible to differentiate between horse hire expended for delivery and collection service. No distinction can be made, for the reason that many of the mounted carriers both deliver and collect mail on their regular trips, and others deliver part of the day and collect the remainder. It is probable that one-half of the total expenditures are for collection service.

There are 2,276 so-called mounted letter carriers, to 1,853 of whom annual allowances are made directly, varying from \$100 to \$400; the remaining 423 mounted carriers are provided with horses and vehicles under contracts ranging from \$312.50 to \$1,320, the latter price being paid for the large collection wagons in New York City. There are also two automobiles used for collection in Baltimore at \$1,800 each.

Respectfully,

F. H. HITCHCOCK,
First Assistant Postmaster-General.

Hon. JESSE OVERSTREET,
Chairman Committee on the Post-Office
and Post-Roads, House of Representatives.

aOf this amount it is estimated that about \$800,000 will be expended for substitutes for carriers on vacation, \$250,000 for temporary carriers, including summer and winter resorts, holiday and election service, and \$50,000 for the introduction of an auxiliary service.

STATEMENT OF HON. W. S. SHALLENBERGER, SECOND ASSISTANT POSTMASTER-GENERAL.**TRANSPORTATION OF MAILS.**

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
Friday, January 11, 1907.

Committee called to order at 10.40 a. m.

The CHAIRMAN (Mr. Overstreet). The committee has reached in its hearings the bureau of the Second Assistant Postmaster-General, and we have present this morning Mr. Shallenberger, the head of that bureau.

Mr. SHALLENBERGER. Mr. Chairman, I desire to make a request of the committee this morning, that I may be permitted to present a matter that I have before me at this time.

Before taking up the regular order of considering the various items in this bill which come under the jurisdiction of my office I wish to make an unusual request of the committee that I be permitted to make some general observations on the leading features of the work committed to my bureau, as far as possible without interruption, in order that certain information called for by yourself as chairman of the committee, and by the Postal Commission of which you are vice-chairman, may be in the record, in part at least before we proceed.

I deem this of vital importance, because the time in which to secure and present the information has been so short and the press of other business so great that not until the present moment have I been prepared to say what my conclusions are.

The subjects under consideration by the Postal Commission necessarily concern this committee and may affect its action on this bill. The public hearings of the Commission in New York and in Washington have been of decided advantage to the Department, as all such investigations and public discussions must be. Every new commission, however able it may be and however many experts it may employ, will be compelled to admit I think at the close of its work, if willing to make an honest confession, that the higher they ascend the hill of expert knowledge the broader the horizon becomes and the larger the fields of research appear.

I feel it due to the committee that I should give at this time the results of my latest investigation on the subject of railway-mail pay. the proper methods of adjusting it under the law, the effect of the administrative methods of the Department in securing service commensurate as far as possible with the annual compensation, and finally the best method of reducing railway-mail pay, if such is the desire of Congress, so as to meet the demand for improved methods and reduced cost of handling and transporting second-class matter without impairing the efficiency of the service.

Mr. SNAPP. Let me observe, first, that I do not understand either one of these subjects is now before this committee, the reduction of railway-mail pay or the investigation of second-class mail matter. That was committed, as I understand it, to a commission appointed at the last session of Congress which has not yet reported.

The CHAIRMAN. I can see no disadvantage to the committee or embarrassment to any member in permitting Mr. Shallenberger to make any such statement pertaining to his Bureau by way of introducing the subject upon which the committee is framing the appropriations for that service as he may desire. I doubt whether it will take a great while, and it might lead to some proper inquiry or it might not; that can be decided after we have heard him. I suggest that we permit Mr. Shallenberger to proceed with his statement in his own way and without interruption.

Mr. SNAPP. I do not object, Mr. Chairman, and only wanted to suggest at this time my doubt as to its pertinency.

Mr. SHALLENBERGER. With reference to the suggestion that has been made I would say that I thought it was pertinent because certain inquiries have been made of the Department and at my office, directed by the chairman of the committee, to which answer has been made through the Postmaster-General, but so lately that the subject-matter can not be before the minds of the committee as a whole while we proceed with the consideration of the bill. The time allowed was so short that we could not get that information before the committee, which has reference to pending measures in the committee, to a proposed bill offered in the House and referred to it or to a resolution offered and referred to the committee. It relates to subject-matter which will necessarily be gone over in the bill at one point or another, and in view of that I thought it would certainly aid the committee in having these particular suggestions or observations that I may make, so that they can refer to them and reflect upon them and make subsequent inquiries concerning which they would not be able to do if withheld at this time.

The CHAIRMAN. You may proceed, Mr. Shallenberger.

Mr. SHALLENBERGER. Mr. Chairman, the subject to which I especially allude is the question as to whether, first, the method of the Department in computing pay for railway-mail service is the proper method; and second, the question as to whether the annual compensation derived from that method of computation is unnecessarily large.

The question is as to whether the annual compensation allowed to railroad companies for certain service performed is excessive or not. The resolution referred to this committee assumes that it is. The subjects generally under consideration by the committee are therefore the subjects on which I desire at this time to submit some observations. But first I will say that the Department itself, in recent years, has been at fault, I think, in presenting to Congress and to the country an estimate of the cost of handling second-class matter from a standpoint which will not bear close investigation; at least it does not meet with my personal approval. I refer particularly to the annual report of the Postmaster-General for the year 1897, in which these words were used:

The cost to the Government of transmitting the 365,000,000 pounds of second-class mail matter carried during the past fiscal year is estimated at \$29,000,000; the postal revenue received from it is estimated at \$3,000,000, leaving a loss, on transportation alone, of \$26,000,000.

That statement conveyed the impression that the basis of railway mail pay must necessarily be the average pound rate, irrespective of the class of mail matter, that the pound rate properly governed the

annual compensation rate for the carriage of both first and second class matter. It was, of course, very large, because it included at that time a false estimate of the total weight of mail matter carried.

In the subsequent reports of the Postmaster-General for 1899, 1901, and 1902, substantially the same argument was used; but in the annual report of 1902 you will notice, under a different administration of the Third Assistant Postmaster-General's office, these words were used:

On the bulk weight of second-class matter carried in the mails the estimated average revenue is eight-tenths of a cent a pound. As the cost of handling is estimated to be approximately 4 cents a pound the publisher's mail privilege is of the nature of a subsidy, for it creates an expense to the Government which must be paid by the people.

That being four years ago, and following the remarks which I have just quoted in 1897 and alluded to in other reports, indicated that for a series of years the Department has conveyed to the country, and especially to publishers, the opinion that the average rate per pound, ascertained by the aggregate weight of all the mail carried, divided into the annual expenditure of the Department, constituted a fair and just estimate as to the cost of carrying the low-grade second-class matter. That naturally aroused in the minds of the periodical publishers and newspapers a resentment, because they knew that they could have that class of matter transported by the carrying companies of the country at a rate proportionate to its value and a rate not to exceed 1 cent per pound within a large zone, so that when the Post-Office Department, through a series of years, committed itself to the statement that the railroads of the country were being paid by the Government on such matter not less than 4 or 5 cents per pound, as has recently been said, or 8 cents a pound, as was originally stated, either a transparent inaccuracy or a gross injustice somewhere was apparent. If I were compelled to believe that on a train going out of New York carrying both an express car and a mail car a newspaper or periodical publisher could have his matter carried by the railroad for an express company at less than 1 cent a pound and that the Government has been so unwise as to continue a general contract with the railroads permitting them to receive as pay for that particular class of matter 5 cents or 8 cents per pound, I should feel it to be a most humiliating admission.

I do not believe that that is the proper conclusion. I do not believe it, first, because I find no warrant for it in the postal regulations or transportation theories of the Universal Postal Union nor in the foreign mail-service laws of this country, nor do I find a parallel to it in general transportation rates touching any other traffic. It is not as a rule an average pound rate which determines the annual compensation paid to the carrier company for service rendered.

I want to quote just a few words from an authority on that subject, the late Senator Vilas, of Wisconsin, not only an eminent lawyer, not only for years Postmaster-General of the United States, but a man who gave especial and careful attention to the consideration of this whole question after leaving the Post-Office Department and becoming a member of the Senate and a member of the Senate Committee on Post-Offices and Post-Roads. Senator Vilas uses this expression:

I think it should be borne in mind that the statute was not designed to pay to railroads a price per pound for the mail carried, but was designed to furnish a basis of compensation, of annual compensation, by reference to the volume of service rendered to the Department by the respective roads in its employment.

If this committee will go back of the hearings of the joint commission which investigated this entire subject in 1898 I think they will find that in my testimony before the Senate Committee on Post-Offices and Post-Roads I started out with the declaration that, first of all, the quantity and character of service rendered must be considered in determining the proper annual compensation for such service.

Now, as sustaining Senator Vilas and others in this statement, I wish to show that the Universal Postal Union, composed of all the civilized countries in the world, in determining the proper rate to be paid for the transportation of its mails, does not determine it upon the average rate per pound of all classes. We now transport across the Atlantic, or to any foreign country, letter mail and prints—two classes—the carrying company receiving 44 cents a pound for the letters and $4\frac{1}{2}$ cents per pound for prints, which includes all mailable matter other than letters. Now, the result of that is this: By the statistics we have secured we find that about 7 pounds of prints to every pound of letters is the proportion in which this matter is carried by steamships to foreign countries. The proportion varies a little, but that is a very conservative statement.

Now let us look at the result. Forty-four cents for the 1 pound, $4\frac{1}{2}$ cents for 7 pounds, gives us $31\frac{1}{2}$ cents for the prints and 44 cents for the letters, or 75 cents for the 8 pounds of matter carried—an average of $9\frac{3}{4}$ cents per pound for that matter. If we are to use a proper method of estimating cost of transporting the second-class foreign mail, then Senator Vilas is correct in saying that the average rate per pound does not establish the competency or adequacy of the annual pay. On the theory of the Department in its reports we should say to the publishers: We get as revenue eight times as much per pound for transporting your periodical matter to a foreign country as we do between points in this country, and yet the revenue is $1\frac{1}{2}$ cents per pound below the actual cost of transporting that matter. Therefore we must increase rates on matter of the second class sent to a foreign country or decrease transportation charges. In fact, we pay $4\frac{1}{2}$ cents a pound only for prints going abroad and we allow those prints to go in the same vessel and in the same place in that vessel with the letters for which we pay 44 cents per pound, but do not average the cost of prints with the cost of letters and say that it costs $9\frac{3}{4}$ cents a pound to transport them, therefore we are not carrying them at a loss. What would be thought of the suggestion to charge up against the admission of prints in the foreign service seven-eighths of the entire cost of foreign transportation of mails, or to eliminate prints entirely and state the saving as seven-eighths of the entire amount?

Again I say that a graduated cost is not only the principle in the Universal Postal Union, but it is the principle in the postal law of this country affecting American ships with reference to foreign rates of transportation. A pound of letters dispatched to a foreign country in a vessel carrying the American flag is transported at a cost of

\$1.60 per pound. A pound of prints is transported at a cost of 8 cents per pound. Seven pounds of prints, magazines, or newspapers will be transported for 56 cents, and 1 pound of letters, \$1.60. Eight pounds of mail matter, \$2.16. Divide \$2.16 by 8 and you get 27 cents a pound. If the theory that we have been going upon in the Post-Office Department is correct, we should say that we can not longer permit second-class matter to be sent in an American vessel because it costs us 27 cents a pound and we only get from that mail matter as revenue 8 cents a pound. I think the theory is wrong from beginning to end and so recognized by the postal administrations of the world outside of this country.

Again, I say the theory is wrong as applied to any other traffic carried throughout the United States. The express company does not pay to the railroad company the same rate per pound for transporting periodical literature that it does for transporting packages, money, and bonds. If you want to compare our service with express service, we must have the comparison on the same level. We must say to the railroad companies: We can not even afford to pay you as much for all classes of matter combined as you get from the express company; the great Government of the United States must be a preferred customer; we should not pay you as much for any particular service as you get from a single corporation, and if we find we are doing it, the pay should be reduced and radically reduced. I have said that to at least three of the leading representatives of railroads within six months. Now, how do I compare and determine? I make the comparisons in this way. I find that the contract with express companies gives to railroads 50 per cent of gross revenue—in some cases more than that, but we will say that is the average. I think no testimony given anywhere says that it averages less than 50 per cent of gross revenue. Now 50 per cent of the gross revenue means 50 per cent of 1 cent per pound for carrying magazines, 50 per cent of \$2.50 a thousand for carrying a money package, and 50 per cent of rates for carrying small packages.

There are usually several hundred little parcels in an express car in which second-class matter goes. Are express companies carrying little parcels for 1 cent a pound or at a rate per hundred? Not by any means. That matter goes at parcel rate; that is, the predominating express matter, and the largest proportion is packages and valuables, and they would not carry low-grade matter alone at a cent a pound. That character of traffic will not stand any higher rates, and often they can carry it just as easily as they can take the car without it, perhaps.

How is it with commercial and manufacturing establishments? They get their coal and coke carried at one rate and their high-grade goods at another rate; in other words, the traffic is classified. The world over the traffic is classified; hence when we construe contracts with the railroad companies by the law at present in force we must recognize that principle or else cease to have any comparison of rates with express and other carrying companies or with foreign contract rates.

My experience is gathered from some years in the public service. As a Member of Congress I had the opportunity of voting for the last reduction of railway mail pay. In 1878 I happened to be a Member of Congress (the Forty-fifth Congress), and I voted for the present

railway mail pay as reduced from what it had been in 1876. After the Forty-seventh Congress I was fourteen years in business, and I took note of the methods prevailing in business. I had experience in the banking business and as treasurer of a large glass company, which had a large business in transportation by freight and by express. My attention was called to what is known as "cost keeping" in manufacturing establishments. Can a certain product bear a certain cost of transportation? I have tried to apply in the Department the knowledge gained in my business experience and in Congress. I have not reached by any means the solution of the question of mail pay, but I do not feel discouraged because I am still a student.

I have been abroad; I have conferred with the postal administration of England, with the postal administration of Germany, and with other administrations, to ascertain, if possible, what the cost of handling any specific class of mail matter was. I was particularly anxious to get the cost of carrying parcel-post matter, because that is one of the subjects the Postmaster-General desired me to investigate in connection with the general question of railway mail pay. I was told that the English administration had no statistics which would enable them to say just what the cost of carrying any particular class of mail matter was. I was told the same in Berlin. The late Postal Commission called before them every expert in the United States. They failed to get statistics that are satisfactory along these lines. We are still inquiring. It is our highest ambition to reduce the cost of carrying second-class matter, and we think we have succeeded to a certain extent.

I have given in my report for several years past certain tables which will indicate a comparison between the annual compensation to railroads and the revenue derived from the business they do for us. I have here my report for the year 1906. If you will turn to page 17, you will see that I have shown in percentages what the British administration would show in the event that they wished to announce a reduction of the compensation they pay to railroads for carrying their parcel-post matter. It is now 55 per cent of the gross revenue of parcel-post matter. If it could be shown in their reports that in the year 1906 they were paying 45 per cent of the revenue for the transportation of parcel post, they would regard that as a saving of 10 per cent on the gross revenue that they derive from that service. That 10 per cent, if saved by a corporation, would go to dividends or to improvements and betterments. You will notice on this page I say:

The postal revenue of the Department in 1890 was \$60,802,097. The expenditure for railroad transportation and postal-car pay in that year was \$21,290,420 in round figures. The percentage of revenue was 34.97 per cent. In 1900 the percentage of revenue, found in the same way, was 36.27 per cent.

In the past year, after six years of attention to the question of reducing, so far as we could, the cost of carriage by noting the weight of equipment, the manner of handling equipment by freight, etc., and profiting by the increased volume of revenue-paying mail matter the railroads were carrying we find the effect upon our administration of the service was this: That out of the gross revenue of 1906 we were spending 27.88 per cent of that revenue for the transportation of mail and pay of postal cars included, a saving of 8.39 per cent

in six years. In another column you will see that the per cent of revenue saved in the entire bureau of the Second Assistant Postmaster-General by reason of all its economies was a little greater—9.83 per cent. In the year 1900 we had 55.07 per cent of the revenue used. In the year 1906 we had 45.24 per cent of the revenue used. What does that mean? It means that in the year 1906 there was a gain in revenue of \$16,000,000 in one bureau to be applied elsewhere in the Department. In the Government service we apply all revenue to improvements, as you will notice. In the past eight years, as the Postmaster-General says in his last report, we have increased expenditures from \$40,000 a year in 1898 to more than \$25,000,000 a year for rural delivery in 1906. Where did we get it? Did we increase the deficit in doing it?

Now, you will notice that the deficit is referred to in several reports of the Post-Office Department as something that is worth considering. We are entirely willing to consider the deficit. We think that the reduction in percentage of deficit is one of the most creditable things that can be referred to in the Department's report. And I may say, from my business experience, that if any corporation or business men could show such a sheet as I propose to quote from, after such enormous improvements secured and free service rendered, they would claim that they were not only free from criticism, but were following admirable business methods. The table that I will leave with the committee is this: I show the postal revenue for thirty years past, beginning with 1877, the postal expenditures for the same years, and ascertain the percentage of deficit in each of those years.

Mr. SNAPP. Does that appear in your report?

Mr. SHALLENBERGER. It does not; this is new matter, collected yesterday.

Fiscal year.	Postal revenue.	Postal expenditures.	Deficit.	Per cent of revenue.
1877	\$27,468,323	\$38,486,322	\$6,017,999	21.91
1878	29,277,517	34,165,084	4,887,567	16.69
1879	30,041,963	33,449,898	3,407,935	11.34
1880	33,315,479	36,542,804	3,227,325	9.68
1881	36,785,398	39,251,736	2,476,338	6.73
1882	41,883,006	40,482,021	1,400,984	
1883	45,508,673	43,282,944	2,225,729	
1884	45,335,969	47,224,560	1,888,601	4.16
1885	42,560,844	50,046,235	7,485,391	17.58
1886	43,948,423	51,004,744	7,056,321	16.06
1887	48,837,609	53,006,194	4,168,585	8.53
1888	52,695,176	55,795,357	3,100,181	5.88
1889	56,175,611	62,317,119	6,141,508	10.93
1890	60,882,098	66,259,548	5,377,450	8.83
1891	65,981,786	73,059,519	7,127,733	10.81
1892	70,930,475	76,980,846	6,050,371	8.53
1893	75,896,933	81,074,106	5,177,172	6.82
1894	75,080,479	84,324,414	9,243,935	12.31
1895	76,983,128	86,790,173	9,807,045	12.73
1896	82,499,208	90,626,296	8,127,088	9.85
1897	82,665,462	94,077,242	11,411,780	13.80
1898	89,012,618	98,038,523	9,025,905	10.13
1899	95,021,384	101,632,160	6,610,776	6.95
1900	102,354,579	107,740,267	5,385,688	5.26
1901	111,631,193	115,089,607	3,458,414	3.05
1902	121,848,047	124,392,472	2,544,425	2.08
1903	134,224,448	138,784,487	4,560,044	3.39
1904	143,582,624	152,362,116	8,779,492	6.11
1905	152,826,585	167,399,169	14,572,584	9.53
1906	167,932,782	178,449,778	10,516,996	6.26
Total	2,243,137,824	2,417,680,740	173,942,916	7.75

a Surplus.

When I was in business I was taught that when on any given product I could reduce the percentage of expense to income I was serving well my employer. In the Post-Office Department this table shows results which need not be apologized for by any Postmaster-General or by any committee of Congress. It can be held up as an evidence that we have been working along lines of good business policy. You will notice in the column showing the percentage of deficit that in the year 1877 it was 21.91 per cent of revenue. In this year of our Lord, when the press of the country seems to be aroused against the excessive and enormous outlay of the Post-Office Department, we find the deficit to be 6.26 per cent of the revenue. In the past eight years, covering the great growth of rural-delivery service and the alleged losses incident to the gross abuses of the second-class privilege and excessive rates of railway mail pay, what do we find? We find in not one of those years was there a deficit over 9.53 per cent. Going beyond those years what do we find? In the year 1894 it was 12.31 per cent. In 1895 it was 12.73 per cent. In the year 1891 it was 10.81 per cent. In the year 1886 it was 16.05 per cent. In the year 1885 it was 17.58 per cent. And so, going back, we find that there has never been a period of eight years in the history of the Post-Office Department for the past thirty years when its business sheet will show as small a per cent of deficit.

When we speak of the revenue from postal matter, you must remember that it is only about 44 per cent of the matter that is carried by railroads from which we get any revenue. My report of the special weighing in 1899, authorized by the Postmaster-General, from October 31 to November 6, on page 29, shows this fact: That the per cent by classes of mail matter and equipment carried by railroads was: First class, 5.39 per cent; second class, 28.34 per cent; second class, free, 1.49 per cent; third and fourth class, 9.34 per cent; foreign, 0.62 per cent; Government, free, 6.42 per cent; equipment, 48.40 per cent, making a total of 100 per cent. The weight of mail matter from which a revenue is derived was 43.69 per cent. The weight of mail matter from which no revenue was derived was 56.31 per cent.

Now, taking these percentages as the best obtainable estimate of mail matter carried, I have thought that whatever reduction may be contemplated in mail pay at the present session might be along the lines of this showing as to the classification of traffic and be levied only on low-grade matter or light-revenue-paying second-class matter. The law of the last session of Congress will have the effect of reducing railway mail pay unless the railroad companies shall do what they have not been doing of late in the direction of satisfactory service. As you know, substantially all the railroads for the past year have been burdened with an unprecedented traffic. Complaints come from every section of the country that schedules are not maintained.

Congress has taken note of that, and last year adopted an amendment to the bill which authorized and directed the Postmaster-General to impose fines and make deductions from the pay of railroad companies for failure to observe schedules. In August last, soon after the passage of that law, an order was issued requiring all rail-

road companies to include in their affidavit a statement of the time of the arrival of all trains. And when it appears that any train on any railroad is more than ten times late to the extent of thirty minutes or more during the quarter—thirty minutes being enough to break a connection as a rule—20 per cent of the pay apportioned to that train is deducted. That has amounted in the quarter ended September 30 to about \$111,000. That is the very lightest quarter in the year—the summer quarter—when schedules can be maintained if ever. The quarter ended December 31 we shall not be able to report until next certification, on the 1st of March.

The question which seems to be more in the minds of the committee and of Congress at this moment is as to whether the method of adjusting pay to railroads has been fair and just and lawful. In reference to that I have furnished to the chairman of your committee, through the Postmaster-General, a very full statement. I will not read it, as it is already, I presume, in your possession. I will summarize it briefly by saying that the present method has prevailed for forty years uninterruptedly through all successive administrations of Second Assistant Postmasters-General, and of Postmasters-General, and was the practice at the time the law of 1873 was passed. Three years later, when the practice had become more firmly established and confirmed, there was a reduction of railway mail pay determined upon. No one in Congress or in the Department suggested that a change in departmental practice would be a proper method of reducing railway mail pay. There was a 10 per cent flat reduction made in 1876. Two years later Congress again determined to reduce railway mail pay.

No suggestion was made that this particular method of adjusting pay should be changed. A flat 5 per cent reduction was made. That was in 1878. In 1884 Postmaster-General Gresham, looking at the subject from a different standpoint, issued a new order, which directed a change of method. That order was not to take effect, of course, until the next general weighing, several months later. The order was referred to the Attorney-General of the United States by Postmaster-General Hatton, who succeeded Gresham, the following month, with full explanation and illustration of the method. The Attorney-General decided that the old method, which is our present method, was the legal and proper one. More than ten years later, the same construction of law having continued, Postmaster-General Vilas, to whom I have referred, came to be Postmaster-General, and his views on that subject are given in a very long letter, a copy of which I will leave with the committee. I have quoted a portion of it in the letter prepared for the committee to which I have referred, but as it discusses every phase of the subject, the committee may want to print the entire letter. That letter went to the extent of saying that no other construction of law was possible, in his judgment; no other construction would be equitable.

A brief paragraph in that letter shows the attitude of Senator Vilas at the time as favorable to a change of the law for other reasons. He says:

I have constantly, both in the Department and since I have been in the Senate, believed that the system for the compensation of railroads for carrying mails is most unfair, unjust, and wrong; that it is due the Government that mails should be carried on a fairer basis—

and the basis he proposed was payment for space rather than weight.

My impression is that if you change from the weight basis alone to the space basis alone you will have even greater difficulty in administering the law. We will have just as much need to exercise great care in determining whether our officials over the country are using too much space as we have now in ascertaining whether the railroads are carrying undue weight during the weighing periods. We have regarded the joint basis of weight and space, one checking the other, as a proper basis for adjustment of mail pay.

As to the claim that the proposed change in the existing practice in the treatment of mail weights would reduce the pay, I may say no one has ever questioned it, and no one can question it. To divide by 7 instead of 6 the aggregate weight of mail cumulating in seven days would give a lighter daily average, as must be apparent to any mathematician. Now what did Mr. Vilas say the intent of the law was? The intent of the law, as explained by the Attorney-General, Senator Vilas, and others, was this: To make the week's accumulation of mail weighed on six days determine a basis for the compensation of the road carrying mails. Most roads carry the week's mail on six days in the week, and some roads carry some mail on the Sabbath, or Sunday. No road carries as much mail on Sunday as on one of the other six, because there are many mail trains not scheduled on Sunday. Some roads carry only one mail train on Sunday. So that to give full effect to Sunday as a division, it is said, would not be exactly equitable. We have nothing to say about it, except that we construe the law as we find it. It will be the continued policy of the Department, along the line I have been following, to secure the best obtainable service for the least expenditure. And I call attention to this fact, that in the sections which we are about to weigh in the next few months, the Middle West, where the railroads are paralleling each other and crossing each other in all directions, we have a larger number of routes that do not carry any mails on Sunday than routes that do carry mails on Sunday. The routes that do not carry their mails on Sunday get the accumulation from Saturday night, 12 o'clock midnight, until Sunday, 12 o'clock midnight, in the Monday tabulation. The routes that have the Sunday trains get the same mail exactly in their Monday tabulation, but they give us improved service by a willingness to expedite that mail, which otherwise would lie over until Monday, and we need that expedition. Every populous community in the country needs such expedition, and hence if arrested at any point serious loss in a business way would be inevitable.

In the State of Pennsylvania we have more than three times as many routes, if I remember right, that are not carrying mail on Sunday as we have routes carrying Sunday mails. We have more routes in New York State not carrying Sunday mails than routes which are, showing that if you adopt any new method it will be important, as Mr. Vilas says, to provide that the road giving the best service will get less reduction of pay than the roads that are giving a limited service.

As I said, the Department is making no argument on this subject;

it simply stands on the construction of the law and the practice running back through a series of thirty or forty years, construed by the Attorney-General of the United States and by all administrative officers, including lawyers as able as Mr. Bissell and Mr. Vilas, both of whom say that any other construction of the law would defeat its intent and be inequitable. The question has been adjudicated if any question before the Department can be said to have been adjudicated. In the opinion of a court, as I am advised, such executive construction continued and sustained through a long series of years should remain undisturbed, especially as there is another way and a simpler way to reach the result. Congress can by a few lines in any bill, just as they did in 1876 and in 1878, reach a reduction of mail pay by saying that there shall be a flat reduction or a sliding reduction of 10, 20, or 30 per cent or to any extent they choose.

The commission appointed a few years ago did not seem to think a flat reduction was exactly wise, as certain small roads are not getting more than they should. Therefore the suggestion to have such a law as would affect only the larger roads or perhaps the roads carrying more than 5,000 pounds a day. Now, I am prepared to say that either one is a feasible proposition, entirely feasible. Congress could reach a result in this way: They could take the percentage of second-class mail, net, which was accurately ascertained in the special weighing of 1900, and provide that on that low-grade traffic (28.34 per cent of the entire traffic) carried on every route averaging daily over 5,000 pounds, or any higher daily weight, such per cent being second-class matter on which we derive revenue of only 1 cent a pound—that that particular proportion, when tabulations are made, shall be adjusted at not exceeding a given percentage of the lawful rate, whether it be 90 per cent, 80 per cent, or 50 per cent of the lawful rate. I don't know of course what the Postal Commission may determine, but evidently it expects that in some way this large mass of publications, yielding a revenue of only 1 cent per pound, shall be carried at less transportation rates. Though there are some who will object to that, the popular expectation can be met by providing in the bill that, say, 25 per cent, or, to be exact, 28.34 per cent, on every route carrying 5,000 pounds, or perhaps 2,500 pounds, and up to, say, 200,000 per day, shall have a reduction of 25 per cent; every route carrying over 200,000 pounds per day shall have a reduction of 50 per cent on second-class publications, the proper percentage of such matter to be ascertained by a special weighing, say, once in seven years. That reaches a result which all these other suggestions are seeking to reach, a reduction of railway-mail pay. And it leaves all of the small routes, the routes that are and the routes that are not carrying Sunday mail, willing to give the Department all facilities needed for our rapidly growing service. I can not of course say that a reduction of pay on large routes will enable us to maintain present facilities.

Mr. STEENERSON. That is the proposition in my bill introduced at this session of Congress.

Mr. SHALLENBERGER. This is simply suggested for the committee to consider. I shall be very glad to give further consideration to it, and answer any questions or submit any further information.

Mr. STEENERSON. I would like to ask before we leave that point, if this method of ascertaining the weight would not be improved if instead of taking the working days, we will say, we divided by 78 instead of by 90. If you divide by 90, that is, the whole number of days upon which the mail is weighed—for instance, in a 90-day period, if they weigh 90 days, and then divide by 90, it would give in the common understanding of the words, the average per day, would it not?

Mr. SHALLENBERGER. That would give the average per day.

Mr. STEENERSON. Would it not be more fair to then give the roads who carry only six times a week only six-sevenths of that? You would ascertain then the average weight per day for 90 days, as the law requires.

Mr. SHALLENBERGER. That would be true.

Mr. STEENERSON. When they failed on Sunday, then give them six-sevenths.

Mr. SHALLENBERGER. That would be true, but a reduction of pay on most routes.

Mr. STEENERSON. Then you would pay in proportion to the service.

Mr. SHALLENBERGER. Yes. But it is that particular class of route (seven-day route) that Congress has at no time, neither in 1876, 1878, or since, attempted to reduce the pay upon. For instance, take a little road 10 miles in length with one or two post-offices between the terminals. The question comes up as to whether we shall contract. The star-route contract may cost us \$500, and a rural route 10 or 12 miles in length outward would cost \$720. All we can possibly pay the railroad under the law for carrying 200 pounds of mail daily over that route is \$427.50 per annum, and in addition to service the railroad's messenger must call for the mail at terminal points and intermediate offices, if located within a quarter of a mile of the station, bringing the mail to the train and taking the mail from the train to the office. The messenger service connected with the small roads is enough to cause protest. Now if we attempt to reduce pay on such roads when they add a Sunday train by one-sixth, or one-seventh, we will have still more embarrassment; but if you leave the term working day in the law as it is, which seems to work equitably all over the country, and reduce by other provisions the pay on the larger routes, you are reaching the object sought in the manner I have suggested.

Mr. STEENERSON. I understand; but have you any data showing that these routes that do not carry mail on Sunday are the routes that are the light routes?

Mr. SHALLENBERGER. That question I apprehended might be asked, so I have collected some data.

Following is the data referred to:

Railroad mail routes in Massachusetts at the time of the regular quadrennial weighing, fall of 1904.

Route.	Week-day and Sunday service.	Week-day service only.	Route.	Week-day and Sunday service.	Week-day service only.
	Pounds.	Pounds.		Pounds.	Pounds.
104001.....	92,457		104049.....		1,294
104002.....		312	104050.....		766
104003.....	2,942		104051.....	2,724	
104004.....		348	104052.....		501
104005.....	223		104053.....	Vacant.	
104006.....	195		104054.....	Vacant.	
104007.....		1,505	104055.....	10,507	
104008.....		97	104056.....	925	
104009.....	243		104057.....	Vacant.	
104010.....		70	104058.....	Vacant.	
104011.....	22,941		104059.....	Vacant.	
104012.....		655	104060.....	Vacant.	
104013.....		290	104061.....	Vacant.	
104014.....		1,523	104062.....	4,452	
104015.....		172	104063.....	1,656	
104016.....		268	104064.....	1,848	
104017.....		202	104065.....		168
104018.....	524		104066.....		433
104019.....	896		104067.....	21,506	
104020.....		936	104068.....		596
104021.....	15,428		104069.....		123
104022.....		103	104070.....		199
104023.....		260	104071.....		207
104024.....		856	104072.....	Vacant.	
104025.....	172,329		104073.....	Vacant.	
104026.....		77	104074.....	3,259	
104027.....		104	104075.....	Vacant.	
104028.....	1,479		104076.....		387
104029.....	1,134		104077.....		169
104030.....		232	104078.....	762	
104031.....		271	104079.....	484	
104032.....		540	104080.....	1,148	
104033.....		850	104081.....		245
104034.....	Vacant.		104082.....	601	
104035.....	39,469		104083.....	Vacant.	
104036.....	921		104084.....	Vacant.	
104037.....		895	104085.....	398	
104038.....	7,069		104086.....		729
104039.....		106	104087.....		86
104040.....		100	104088.....		200
104041.....	39,469		104089.....		91
104042.....	Vacant.		104090.....	767	
104043.....	1,195		104091.....	Vacant.	
104044.....	2,622		104092.....	Vacant.	
104045.....		2,752	104093.....	Vacant.	
104046.....	2,390		104094.....	Vacant.	
104047.....		934	104095.....	783	
104048.....	263				

Ninety-five routes; 18 vacant routes; 35 with Sunday service; 42 without Sunday service.

Kentucky railroad mail routes at the time of the regular quadrennial weighing, spring, 1904.

Route.	Week-day and Sunday service.	Week-day service only.	Route.	Week-day and Sunday service.	Week-day service only.
	Pounds.	Pounds.		Pounds.	Pounds.
129001.....	335		129014.....		702
129002.....	5,696		129015.....	1,322	
129003.....	1,309		129016.....	5,556	
129004.....	36,931		129017.....	2,581	
129005.....		87	129019.....		254
129006.....	730		129020.....	24,108	
129007.....	5,810		129021.....		156
129008.....	15,313		129022.....		189
129009.....	9,940		129023.....		113
129010.....		232	129024.....		879
129011.....	1,023		129025.....	30,006	
129012.....		298	129026.....		415
129013.....		375	129027.....		912

Kentucky railroad mail routes at the time of the regular quadrennial weighing, spring 1904—Continued.

Route.	Week-day and Sunday service.	Week-day service only.	Route.	Week-day and Sunday service.	Week-day service only.
	<i>Pounds.</i>	<i>Pounds.</i>		<i>Pounds.</i>	<i>Pounds.</i>
129028.....		291	129042.....		476
129029.....		63	129043.....		500
129030.....		659	129044.....	889	
129031.....		303	129045.....		1,423
129032.....	4,647		129046.....		37
129033.....	6,269		129047.....	1,157	
129034.....		1,260	129049.....		304
129035.....		202	129050.....		503
129036.....	63		129051.....		67
129037.....	3,133		129052.....	19,981	
129038.....		43	129056.....		28
129039.....	3,523		124057.....	838	
129040.....	3,239		129058.....		289
129041.....		312	129059.....	27,930	

Twenty-five routes with Sunday service; 29 without Sunday service.

Statement of Iowa (third section) railroad routes, showing weights of mails carried as per last quadrennial weighing (1903) and routes on which there is Sunday service.

[Sunday service indicated by the asterisk (*).]

Route.	Weight.	Route.	Weight.
143001.....	* 13,504	143049.....	* 601
143002.....	1,332	143050.....	1,225
143003.....	* 4,488	143051.....	* 916
143004.....	77	143052.....	* 1,489
143005.....	* 146,054	143053.....	623
143006.....	1,233	143054.....	357
143007.....	* 3,070	143055.....	* 1,734
143008.....	1,187	143056.....	* 224
143009.....	* 1,073	143057.....	671
143010.....	* 4,327	143058.....	261
143011.....	Vacant.	143059.....	496
143012.....	* 5,437	143060.....	* 8,090
143013.....	445	143061.....	101
143014.....	* 12,264	143062.....	321
143015.....	723	143063.....	* 3,243
143016.....	638	143064.....	388
143017.....	* 4,910	143065.....	928
143018.....	356	143066.....	* 3,791
143019.....	2,215	143067.....	991
143020.....	1,622	143068.....	91
143021.....	* 997	14 069.....	* 3,901
143022.....	* 1,706	143070.....	* 4,687
143023.....	422	143071.....	* 764
143024.....	468	143072.....	443
143025.....	* 6,165	143073.....	* 35,661
143026.....	3,599	143074.....	Vacant.
143027.....	1,406	14 075.....	120
143028.....	* 5,919	143076.....	1,237
143029.....	* 22,211	143077.....	* 1,619
143030.....	* 12,116	143078.....	387
143031.....	* 2,135	143079.....	397
143032.....	327	143080.....	* 376
143033.....	* 2,131	143081.....	* 1,374
143034.....	1,956	143082.....	885
143035.....	171	143083.....	644
143036.....	57	143084.....	1,473
143037.....	214	143 85.....	183
143038.....	* 2,233	143086.....	* 1,463
143039.....	296	143087.....	265
143040.....	553	143088.....	210
143041.....	824	143089.....	Vacant.
143042.....	701	143090.....	455
143043.....	384	143091.....	303
143044.....	* 789	143092.....	242
143045.....	408	143093.....	55
143046.....	1,363	143094.....	* 617
143047.....	* 3,581	143095.....	208
143048.....	310	143096.....	Vacant.

Statement of Iowa (third section) railroad routes, showing weights of mails carried as per last quadrennial weighing (1903), etc.—Continued.

Route.	Weight.	Route	Weight.
143097	* 535	143110	Vacant.
143098	* 4, 256	143111	190
143099	* 850	143112	453
143100	644	143113	347
143101	785	143114	* 306
143102	Vacant.	143115	Vacant.
143103	* 8, 011	143116	Vacant.
143104	65	143117	138
143105	Vacant.	143118	* 697
143106	Vacant.	143119	Vacant.
143107	155	143120	115
143108	375	143121	Vacant.
143109	* 11, 536	143122	38

One hundred and ten routes; 44 with Sunday service; 66 without Sunday service.

Kansas railroad mail routes at the time of the regular quadrennial weighing, spring, 1906.

Route.	Week-day and Sunday service.	Week-day service only.	Route.	Week-day and Sunday service.	Week-day service only.
	Pounds.	Pounds.		Pounds.	Pounds.
155001	17, 567		155053	902	
155002		174	155054	4, 991	
155003	8, 113		155055		201
155004	5, 703		155056	552	
155005	2, 923		155057		1, 318
155006	7, 539		155059		469
155007	3, 836		155060		480
155008	33, 969		155061		249
155009	942		155062	207	
155010	47, 734		155063	7, 841	
155011	16, 289		155064	11, 159	
155012	11, 528		155065		130
155013		632	155066		57
155014	97		155067	3, 853	
155015		869	155068		910
155016	1, 205		155069	349	
155017	849		155070	1, 755	
155018	18, 564		155071		105
155019	5, 703		155072		
155020	2, 877		155073	1, 314	
155021	4, 404		155074	362	
155022	4, 928		155075	25, 725	
155023	575		155076	701	
155024	989		155077		343
155025		1, 141	155078		141
155026	2, 170		155079	1, 509	
155027		179	155080	3, 703	
155028		514	155081		43
155029	1, 321		155082	13, 833	
155030	792		155083	16, 505	
155031	5, 072		155084	14, 818	
155032		425	155085		382
155033	602		155086	2, 504	
155034		274	155087	443	
155035	7, 802		155088		1, 916
155036	2, 645		155089	14, 860	
155038		287	155090		272
155039	372		155091	12, 655	
155040	4, 455		155092		58
155041	6, 216		155093		
155042		391	155094	134	
155043	876		155095	2, 843	
155044		366	155096		146
155046		213	155097	592	
155047	891		155098		233
155048		376	155100	62, 958	
155049	1, 376		155102		81
155050		227	155103		87
155051	1, 015		155104		536
155052	43, 036		155105	375	

One hundred routes—64 with Sunday service, 36 without Sunday service.

I have, for instance, taken for the State of Massachusetts the regular quadrennial weighing in 1904, and have grouped here the routes in that State by number, having a Sunday service, and the routes that have not a Sunday service, with the respective weights on each. I will leave that with you. I also have the State of Kentucky, and I find that the routes in Kentucky—the Sunday routes, and those without Sunday routes—are given, together with the weights. In that State you will see that there are without Sunday service routes carrying 1,423 pounds daily, 1,260 pounds, 503 pounds, 659 pounds, and so on, whereas the routes having Sunday service are larger. There is one as large as 36,000 pounds in the State of Kentucky. Passing over to the State of Iowa, which is another representative State, we have both classes of routes given, taken from our records at the last weighing period. In the State of Kansas we find a larger proportion of Sunday service than in either of the other States selected as sample States.

I will say that New England especially—but many sections of the country are averse to Sunday service, there being both a civic and a religious feeling against it.

Mr. STEENERSON. And even where the mail is heavy they do not carry it on Sunday.

Mr. SHALLENBERGER. They do not desire mail in some places on Sunday. In the State of New York there is a suburban city of 20,000 or 25,000 people that protested bitterly for a time against any Sunday service at all. I assume that it was largely that sentiment that led to the working-day clause in the legislation of 1873. When a road finds it can only carry mail on three days of a week our practice is to divide the aggregate weight of the seven days' mail by 6, and give one-half of full compensation for the three days' service.

Mr. STEENERSON. Why should you not then take the weight of the mail for ninety days and use 90 as a divisor for obtaining the average, and then give them three-sevenths?

Mr. SHALLENBERGER. I think I have suggested perhaps the equity of that as to pro rata, but the pay would be reduced. The Monday mail is usually much larger than the Sunday mail under any circumstances. Many post-offices are not open on Sunday except for a short time, so Sunday, not being a full day, would not be in the opinion of some an equitable factor in the divisor. The six working days in each week, if they include Sunday mail, are supposed to give results as nearly uniform in the carriage of mail matter as possible, and hence they are the basis of mail pay.

Mr. STEENERSON. Yes; but where it carries the mail only three times a week, it always carries it on working days.

Mr. SHALLENBERGER. Yes.

Mr. STEENERSON. And then you would necessarily simply divide by the whole number of days upon which it was weighed. There is no question of Sunday in that problem.

Mr. SHALLENBERGER. No.

Mr. STEENERSON. And there is nothing in the law that would authorize you to use the best divisor in the actual number of days in which the mail was ascertained.

Mr. SHALLENBERGER. But I have said that as postal officials we are not at all concerned as to this particular divisor. We can tabulate either way that Congress thinks best. We simply want to put before

you what has been the practice under sanction of law, why it has been the practice, who have investigated the practice, and what they have said about it.

The CHAIRMAN. Let me ask, in connection with Mr. Steenerson's last inquiry, what is the divisor where the mail is carried over a route only three times a week?

Mr. SHALLENBERGER. The divisor is six.

The CHAIRMAN. Based upon six working days.

Mr. STEENERSON. You spoke a moment ago about the reasonableness of reducing railway mail pay upon those roads where the traffic was heavy, and pointed out, I believe, that in your judgment the railway mail pay on the light routes, as now ascertained, was very low for that amount of service.

Mr. SHALLENBERGER. In some cases so low that we have great difficulty in changing from the star to the railroad service.

Mr. STEENERSON. In fact, lower than the rural and star-route pay?

Mr. SHALLENBERGER. In many cases; and yet it is twenty times as much for 200 pounds daily as the pay on the large routes.

Mr. STEENERSON. Now, on the heavy routes, the idea of space and weight enter in as factors in ascertaining the amount of pay; that is, the theory of your Department that both of those are now factors in determining pay?

Mr. SHALLENBERGER. Yes.

Mr. STEENERSON. Where they have special mail trains which carry mail in storage cars the principle upon which the railway mail routes was fixed, space and weight, is altered, is it not, so as to really use less space than was originally contemplated?

Mr. SHALLENBERGER. Less space, yes.

Mr. STEENERSON. For instance, there are many of our storage cars on these special railway trains that carry 45,000 pounds in one car, are there not?

Mr. SHALLENBERGER. If that weight per car has been reached, it is where publications using heavy paper, like magazines and such, are packed solid.

Mr. STEENERSON. The capacity, I believe, is 45,000 pounds?

Mr. SHALLENBERGER. We do not so call it. The average capacity is not anything like that.

The CHAIRMAN. That is on account of the division of the car.

Mr. STEENERSON. Mr. Shallenberger, I have seen postal cars on the road here in Washington marked "45,000 pounds capacity."

Mr. SHALLENBERGER. That may be when, as I have suggested, containing solid matter.

Mr. STEENERSON. I would suggest that you inquire of your subordinate in regard to that.

Mr. SHALLENBERGER. I will ask Mr. Grant, the assistant general superintendent of railway mail service, to answer that question.

Mr. GRANT. We consider 10 or 11 tons a carload.

Mr. STEENERSON. You consider that a carload?

Mr. GRANT. Yes, sir.

Mr. STEENERSON. But the capacity of the car, as marked on the outside, is 45,000 pounds.

Mr. GRANT. I consider that the capacity, because the railroad people will not allow any more in it. They do not consider it safe.

Mr. STEENERSON. Have you seen postal cars with the capacity "45,000 pounds" marked on the outside?

Mr. GRANT. I don't remember of seeing it.

Mr. SHALLENBERGER. We would find, I think, if we weighed, this result: In the cars leaving New York, filled with newspapers in sacks, probably a weight of 22,000 pounds; with magazines of heavy paper, packed solid and square in sacks and packed solid in the car, a result of perhaps 40,000 pounds.

Mr. STEENERSON. The result is according to the way it is packed, but the storage cars will carry 10 or 12 tons?

Mr. SHALLENBERGER. Yes, as an average load.

Mr. STEENERSON. Or 22,000 pounds. And what is the average load of the R. P. O. car that is used for distribution purposes?

Mr. SHALLENBERGER. From 2½ to 4 tons.

Mr. STEENERSON. From 5,000 to 8,000 pounds?

Mr. SHALLENBERGER. Yes; I should perhaps say 2 tons to 4 tons.

Mr. STAFFORD. How much in the 50-foot car?

Mr. SHALLENBERGER. I will ask Mr. Grant to answer that question.

Mr. GRANT. It runs from 2 to 4 tons in the 40 to 60 foot cars. I do not think the 60-foot cars will average more perhaps than 3½ tons.

Mr. STEENERSON. Can you also, in this connection, give the weight of those cars of the different sizes in order that we may ascertain the amount of dead weight to the amount of freight carried?

Mr. GRANT. The weight of the 60-foot car is about 100,000 pounds.

Mr. STEENERSON. And that carries about 8,000 pounds?

Mr. GRANT. I should say so.

Mr. STEENERSON. And the 55-foot car weighs how much—about 90,000 pounds?

Mr. GRANT. Eighty-five or ninety thousand pounds, I should say.

Mr. STEENERSON. That carries about how much mail?

Mr. GRANT. About 5,000 pounds.

Mr. STEENERSON. And the smallest R. P. O. car is a 40-foot car. That weighs how much and carries how much?

Mr. GRANT. I don't remember the figures for the 40-foot car. There are very few 40-foot cars built.

Mr. STEENERSON. I suppose it is about in the same proportion.

Mr. GRANT. I should say so.

Mr. STEENERSON. Mr. Shallenberger, the fact that this mail can be carried in storage cars is a factor that would be an argument in favor of reduced railway mail pay for those routes, would it not?

Mr. SHALLENBERGER. It would be an argument in favor of applying any reduction to those routes more largely than to the smaller routes.

Mr. STEENERSON. Because the dead weight of the car in proportion to the load it carries is very much less.

Mr. SHALLENBERGER. Very much less. And I might add to what I have said another reason why I think, from the departmental standpoint, it would work well to have a different rate on that class of matter. We find that all the cities of the country are producing more and more of second-class matter. I would not say that the growth is not in the interest of progress in general education and civilization, and for the betterment of the country, as other countries so regard it. Canada has half a cent per pound rate for second-class matter. Peru has recently agreed, as I am advised, to carry second-class matter

free. Inasmuch as we want to carry only legitimate second-class matter and rule out the illegitimate, let us not longer tempt the railroads to seek that class of storage-car matter in preference to other. Let us have reduction of expenditure when we fill a storage car, particularly with that class of mail matter. Let it be less remunerative to them than other matter carried in the other cars, so that we will not be expecting to have them bid for it, as it were.

Mr. STEENERSON. Can you make that more plain by a concrete illustration?

Mr. SHALLENBERGER. No, I can not. The suggestion came to me and I gave it without reflection, that if there should be an advantage to the Government in having railroad companies less willing to carry second-class matter than they now are because they would have to do so at perhaps one-half or three-fourths of the full compensation, it might induce them to assist the Department in checking the undue production of such matter, but we would probably not find that suggestion of any advantage.

Mr. STEENERSON. How could the railroad encourage or discourage the loading up of their train with second-class matter?

Mr. SHALLENBERGER. They could not. There is no way by which they could do it if the matter was there to be forwarded.

Mr. STEENERSON. You have good reason to doubt that the same quantity should be carried whether the railroad was paid a high rate for carrying it or a low rate.

Mr. SHALLENBERGER. I would say, that if the railway mail pay were just one-half of what it is now on second-class matter, we might have difficulty in securing the best service from any railroad, and possibly be confronted with the impossibility of securing it from many. As the annual compensation is reduced for any reason, the desire to carry the traffic is reduced; and the willingness to carry a particular traffic might be so apparent that the ability to secure adequate facilities might be impaired. It might work both ways. The country demands that second-class matter shall go on all small routes. It will not, as a rule, reach the small route unless it starts on the large route. It is in the interest of the Department to see that second-class matter shall have every facility (especially newspapers) as to speed and as to prompt delivery on rural routes that other classes of matter have; giving it, in fact, every facility that we grant to other matter. Now, routes carrying less than 5,000 pounds, under my suggestion, would get the full pay. The slightly larger routes that bring that class of matter to small routes would get, perhaps, greatly reduced compensation, and that might seem to be inequitable. But standing by what I said before, I agree with Mr. Steenerson in this that the proportion of dead weight to live weight for a full car of storage mail is so much less than in a working car that on low-grade traffic there might very properly be a reduction of mail pay confined to that class of matter.

The CHAIRMAN. Mr. Shallenberger, did not Dr. Henry C. Adams, the expert before the last postal commission, known as the Walcott-Loud Commission, state that if the storage car could be filled to the average load of 6 tons, that the rate of pay could be reduced one-half and still leave a fair profit to the road?

Mr. SHALLENBERGER. My memory does not serve me as to whether that statement was made or not.

Mr. STEENERSON. Do you not recall that Mr. Adams did make the point that the rate of pay should be governed by the amount of load in the car carried; that if the load was increased the pay might be decreased?

Mr. SHALLENBERGER. I recall that he stated that as a principle.

Mr. STEENERSON. I think that was his argument.

Mr. SHALLENBERGER. That was his argument, as I remember it.

Mr. STEENERSON. That if you could increase it from 5,000 pounds to 75,000 pounds, you might decrease it in proportion?

Mr. SHALLENBERGER. I am not prepared to say whether he modified that at the close of the investigation or not. He was in the Department very frequently, conferred with us fully, and he modified very considerably the testimony that he gave in the first months.

Mr. STEENERSON. My recollection is that he did not modify that principle.

Mr. SNAPP. If he didn't, that is the only thing he did not modify and retract.

The CHAIRMAN. I ask you again if Doctor Adams did not, before that Commission, use this language:

For the purpose of emphasizing the importance of loading as essential to determine the railway mail compensation, as well as to suggest the line of desired improvement in the present railway mail service, it may be added that were it possible to load 5 tons in a car, the expense would be reduced to \$1,766 per mile of line; that is to say, a sum less than one-half the amount actually paid?

Mr. SHALLENBERGER. I would reply again that I have forgotten about the testimony. Five tons could only apply to full R. P. O. cars. My memory does not serve to carry the testimony.

Mr. SNAPP. I think the record ought to show the page from which that quotation is made, Mr. Chairman.

The CHAIRMAN. From volume 2 of the report of the Commission of 1898, page 234.

Mr. SNAPP. I suggest that as we now have only a part of Mr. Shallenberger's statement, that the letter addressed by him to the chairman of this committee, and made a part of this statement, ought to be read and made a part of the record so that we can have the whole of it before us at the same time.

Mr. STEENERSON. Is that as to the weight?

Mr. STAFFORD. It relates to the method of weighing.

Mr. SNAPP. I do not know what it relates to, but it has not been placed before the committee.

Mr. STEENERSON. I understood that the General stated in substance what the letter contained.

Mr. SHALLENBERGER. I made a very brief reference. The letters are both with the chairman, as he received them through the Postmaster-General, and proposed to make them a part of the testimony.

Mr. STEENERSON. Recurring again to the storage cars and to the R. P. O. cars in these special mail trains, have you ever calculated as to whether the extra pay allowed for R. P. O. cars was equal to the increased earnings of the storage cars—that is, whether it was more profitable to carry in a storage car or in an R. P. O. car, in view of the increased pay that is allowed for carrying in R. P. O. cars?

Mr. SHALLENBERGER. I haven't any information which would enable me to give an answer.

Mr. STEENERSON. I understand that where a storage car is carried there is no special railway-car pay for that car.

Mr. SHALLENBERGER. None whatever.

Mr. STEENERSON. It is only where an R. P. O. car is used that it is allowed; but the railroad company, in view of the increased load, uses these storage cars in preference to R. P. O. cars.

Mr. SHALLENBERGER. Not necessarily in preference; as, for instance, a full R. P. O. car will not carry as much mail as the clerks can work on the route. But a storage car, being connected with the R. P. O. car, and being filled with storage mail, affords an opportunity to the clerk to take mail from the storage car into the working car, work it, and return it to the storage car. Thus on a long route mail is transferred back and forth. It is storage mail in one sense and working mail in another sense.

Mr. STEENERSON. Who determines the number of R. P. O. cars with clerks in them, and the number of storage cars?

Mr. SHALLENBERGER. The Office of Second Assistant Postmaster-General.

Mr. STEENERSON. Your office determines that?

Mr. SHALLENBERGER. Yes.

Mr. STEENERSON. What rule determines it?

Mr. SHALLENBERGER. The report of the division superintendent, carefully reviewed by the general superintendent, and brought by the railway adjustment division to my attention for final action.

Mr. STEENERSON. The idea is that it is proportioned to the amount and number of clerks?

Mr. SHALLENBERGER. The number of clerks are really proportioned to the size of the car, made necessary by the weight of mail and number of separations. In the East, for instance, and in other sections where the number of separations is very great, the postal car will carry less weight of storage mail, I think, than it will in sections of the country where distances are great between stations and where the number of separations is not so large as to require a like amount of racks and casing.

Mr. STEENERSON. Where are the extreme cases of that kind?

Mr. GRANT. Illinois is probably a State where we would regard that the most separations are made for the same distance.

Mr. STEENERSON. How is it as to the transcontinental routes?

Mr. GRANT. They do not require the same amount of space for distribution, because you do not have the same amount of mail for any one State. You can work one State, tie it out, and work another State in the same case.

Mr. STEENERSON. Do the transcontinental routes permit a larger proportion of the mail to be carried in storage cars than the routes in New York or Illinois, for instance?

Mr. GRANT. Well, I don't think there is very much difference. The amount of storage space, of course, varies very much. Some days we have to put on an additional car. The storage space depends entirely upon the bulk of the mail going.

The CHAIRMAN. Take that specific case, the transcontinental mails from Omaha to the coast. What per cent of the mail carried on that line is distributed en route and what per cent is through mail?

Mr. GRANT. I haven't got that as to the overland.

The CHAIRMAN. Can you answer it approximately, or on any other

transcontinental route? Is not the per cent of the through mail much greater than the per cent distributed en route?

Mr. GRANT. The amount of storage mail—through mail?

The CHAIRMAN. Yes, sir.

Mr. GRANT. No, sir.

The CHAIRMAN. Are you certain of that?

Mr. GRANT. On our Overland route?

The CHAIRMAN. I am speaking of that particular line.

Mr. GRANT. The Overland?

The CHAIRMAN. That is what I asked about.

Mr. GRANT. Well, I should say not. Starting at Omaha, they work, of course, every part of Nebraska—Nebraska has always been worked east, but they work their own local, and also Wyoming. They work Utah, Oregon, and Washington. That is all working mail between Omaha and Green River. West of Green River we get Nevada and California, so that that takes up pretty much all the mail. You have through San Francisco and Portland mail, and large cities.

The CHAIRMAN. Have you in your office, Mr. Grant, from which you could give the committee reasonably accurate information, the per cent of mail carried on what is known as the Overland mail from Omaha to the coast? I mean by that, what per cent is through mail and what per cent is worked en route, or distributed en route?

Mr. GRANT. Why, yes.

The CHAIRMAN. Will you be kind enough to furnish the committee with any information on that particular line?

Mr. GRANT. Yes, sir.

POST-OFFICE DEPARTMENT,
SECOND ASSISTANT POSTMASTER-GENERAL,
RAILWAY MAIL SERVICE,
Washington, January 19, 1907.

DEAR SIR: In response to your inquiry as to the per cent of storage mail carried on the overland route between Omaha and San Francisco, I have to advise you that between Omaha and Ogden the daily average weight, based on the figures of last weighing, is about 110,000 pounds west bound, of which it is estimated that 48 per cent is through mail—that is, mail not worked between termini. East bound, the weight is about 37,000, of which it is estimated 51 per cent is through mail.

On the line between Ogden and San Francisco the weight, west bound, is about 78,000 pounds; east bound, about 20,000 pounds, of which it is estimated 35 per cent of the mail carried west bound is storage mail and 50 per cent east bound.

You understand, of course, that a large portion of the through mail between Omaha and Ogden is working mail between Ogden and San Francisco and vice versa.

Very respectfully,

W. S. SHALLENBERGER,
Second Assistant Postmaster-General.

Hon. JESSE OVERSTREET,

*Chairman, Committee on the Post-Office
and Post-Roads, House of Representatives.*

Mr. SPERRY. I would like to ask you, General Shallenberger, a question. I would like to ask of you, as an official, if there is any real cause for the statement that is made so often that the Govern-

ment is paying too much for our railroad service as a whole? I am not asking you to specify, but whether there is any real cause for that complaint, in your judgment.

Mr. SHALLENBERGER. I think there is a cause for the complaint against the inequality of the law. I am not prepared at this moment to say, if I were asked to so modify the law as to produce the equitable result I have in mind, giving certain routes larger compensation and certain other routes a smaller compensation, paying for certain space used and reducing pay for other space, that the aggregate would be less or more. For instance, I believe from the information I have received that the Long Island Railroad system has reason for its very earnest protest against the aggregate annual compensation it receives for the amount of service performed.

Now, the reason I say that is this, that that system has such frequency of apartment-car and other train service and such a limited volume of mail on any train as not to make it possible for the Department to pay them anything for R. P. O. service. It is all apartment-car service; that is, service requiring space without compensation, being under 40 feet. Thirty feet is the limit of our apartment space. I should want to go into that. I have not carefully investigated it, because I did not find the necessity, but I would want to go into that more carefully and make an investigation to see whether that were true. I want to say that I should recommend to reduce the pay on all R. P. O. service, especially above 40 feet, but I should give pay on such apartment-car service as required clerks and cases and separating space. I should want to give increased compensation on certain routes and decrease it on the larger routes. Now, as to what effect as a whole that would have I am not prepared to say.

The CHAIRMAN. The correspondence from Mr. Shallenberger I will have printed in the record immediately following his statement.

DEPARTMENT OF JUSTICE,
Washington, October 31, 1884.

The POSTMASTER-GENERAL.

SIR: I have considered your communication of the 22d instant, requesting to know whether the construction placed by the Post-Office Department on section 4002, subsection 2, prescribing the mode in which the average of the weight of mails transported on railroad routes shall be ascertained is correct, and am of opinion that that construction is correct, and that a departure from it would defeat the intention of the law and cause no little embarrassment.

I have the honor to be, your obedient servant,

WM. A. MAURY,
Acting Attorney-General.

OCTOBER 24, 1884.

SIR: The act of March 3, 1873 (17 Stat. L., p. 558), regulating the pay for carrying the mails on railroad routes provides:

"That the pay per mile per annum shall not exceed the following rates, namely:

"On routes carrying their whole length an average weight of mails per day of 200 pounds, \$50; 500 pounds, \$75; 1,000 pounds, \$100; 1,500 pounds, \$125; 2,000 pounds, \$150; 3,500 pounds, \$175, etc. * * *

"The average weight to be ascertained in every case by the actual weighing of the mails for such a number of successive working days, not less than thirty * * *."

Upon a large number of the railroad routes mails are carried on six days each week; that is, no mail is carried on Sunday. On others they are carried on every day in the year.

It has been the practice since 1873 in arriving at the average weight of mails per day on these two classes of service to treat the "successive work-

ing days" as being composed of the six secular or working days in the week, which is explained by the following illustrations:

Two routes, No. 1 and No. 2, over each of which 313 tons of mails are carried annually.

On route No. 1 mails are carried twice daily, except Sunday, six days per week, and are weighed for thirty successive working days, covering usually a period of thirty-five days. The result is divided by 30 and an average weight of mails per day of 2,000 pounds is obtained.

Transportation per mile of road per annum.....	miles..	1,252
Weight per mile of road per annum.....	tons..	313
Pay per ton per mile of road per annum.....	cents..	47.92
Pay per mile run of road per annum.....	do.....	11.9
Rate of pay allowable per mile per annum.....		\$150

On route No. 2 mails are carried twice daily, seven days per week, and are weighed for thirty successive working days, and for the intervening Sundays, the weight on the Sundays being treated as if carried on Mondays, the weighing, as before, covering usually a period of thirty-five days. The result is divided by 30 and an average weight of mails per day of 2,000 pounds is obtained.

Transportation per mile of road per annum.....	miles..	1,460
Weight per mile of road per annum.....	tons..	313
Pay per ton per mile of road per annum.....	cents..	47.92
Pay per mile run.....	do.....	10.2
Rate of pay allowed per mile per annum.....		\$150

I have thought it necessary to give the foregoing illustrations in order that the practice of this Department under the law cited may readily appear, and I will thank you to advise me whether that practice is in compliance with or in violation of the statute.

If not in conformity with the law will you please indicate the correct method by which the average weight per day should be obtained and the compensation adjusted thereon?

Very respectfully,

FRANK HATTON,
Postmaster-General.

HON. B. H. BREWSTER,
Attorney-General, Department of Justice.

MADISON, WIS., June 17, 1895.

HON. CHARLES NEILSON.

Second Assistant Postmaster-General, Washington, D. C.

MY DEAR SIR: I called upon you at the Department on Thursday, the 6th instant, but had the misfortune to find that business had taken you elsewhere that day, and being unable to remain longer in Washington was compelled to miss the privilege of seeing you.

I desire to particularly recall the subject of the adjustment of compensation on roads carrying Sunday mails. I supposed the overwhelming justice of the argument had been accepted and that the practice which I have understood has prevailed hitherto would continue, so that no unjust discrimination would be made against those roads which give the Department the most and the most useful service. Indeed, I do not mean to imply doubt now by writing. But where interest is great, and the sense of injustice if another result were reached is keen, you will pardon an earnest repetition of what may perhaps seem plain to you and be entirely settled in your mind. I am more inclined to write because of the tone in which the subject was discussed by your assistant and some other gentlemen who happened to be in your office, and to whom I spoke of my purpose in calling upon you.

I think it should be borne in mind that the statute was not designed to pay to railroads a price per pound for the mail carried, but was rather designed to furnish a basis for fixing the annual compensation by reference to the quantum of service rendered the Department by the respective roads in its employment. The theory of the statute is, that during a certain time, of course to be taken for all of the roads together (or all in a section), the actual weights of mails shall be ascertained and the relations of the roads to one another and to the Department be fixed upon the gradation established by the statute in accordance with those weights of mails. It is, however, an annual rate of compensation to endure for four years which is thus established; not a price per pound.

The time named in the statute is "thirty successive working days;" that is to say, five weeks of six days each. This statute was first passed in the appropriation act of 1872 or 1873, if I mistake not. At that time comparatively little Sunday carrying of the mails took place. The practice has since vastly increased, responsive to the needs of society. It was plainly the purpose of Congress to require the mails to be weighed for at least five weeks and as much longer as the Postmaster-General saw fit to require. This period was composed of six working days in each week. Undoubtedly the statute meant by "working days" not six such days as work should be done upon, but the six days of the week in which work may be done without violation of the commandment to rest on the seventh. The phrase was used in its popular sense as distinguishing six days in the week from the seventh, and it assumed all mail carrying to be done on such six days.

But the Department has seen fit to accept from railroads the service of carrying the mails on the seventh. It is a peculiarly convenient service to the public, and it is rendered by special labor performed on the part of such railroad companies during the day of rest. The Government can not possibly intend to be mean enough to accept the service and not pay for it. Therefore the mails must be weighed which are carried on Sunday, notwithstanding Sunday is not a "working day."

There never has been a question, there never could be, upon this point. The only question is, how the weight of the mails carried on Sunday shall be treated in the computation. Are they to be reckoned at all? Assuredly. Unless they be reckoned the Government will pay nothing for the carriage. Then are they to be reckoned as if Sunday were a "working day?" If so, the statute is violated by the inclusion of Sunday as a "working day." Still more, a gross injustice is done to that class of roads which renders the greatest and best service to the Department. That would be to grade the carriers upon an average of weights whereby the roads which rendered less service are put above them, proportionately. The roads which in six days carry all the mail sent over them during the week would be awarded an average of one-sixth of such week's total weight, whereas the roads which, to favor the Department, run an additional day to carry the week's mail would find their week's total weight averaged at one-seventh, the proportion thus being in favor of the company with the least claim for consideration. This can not be the design of the statute.

In practical justice the spirit of every statute ought to govern its administration. It is impossible to cover in a few words the details of widespread transactions and business affairs like the transportation of the mails. It is expected the Department will supply with wisdom and justice whatever is necessary in order to apply it to a particular case. It was the purpose of the statute to bring together within a certain period of time the weight of the mail, and adjust the relative gradations of the different companies according to the quantity of mail which they carried during that period. You take the weights upon roads running only six days in the week for five weeks; divide the gross weight by thirty. That is clearly right. So, if any roads carry mail but three times a week you weigh their mails for the five weeks and divide the gross weight by thirty. This graduates that road in its proper place with the others. In like manner with the Sunday carrying roads, you take the gross weight of the mails for five weeks, during the same time as the non-Sunday carrying roads, and divide it by thirty. Unless this be done the roads do not hold their relative proportionate relations in the fixing of the annual rate of compensation.

Let me illustrate by a plain case: Suppose a road carried the mail but on three days during the week, and one of those days was Sunday. Would you not reckon that Sunday's mail in each and every one of the five weeks necessary to the thirty working days, so as to include five Sundays' weights with those of ten other days, the total to be divided by thirty? It is too obvious for a question; and yet the controlling idea is the same and governs the whole subject. Perhaps it may be said the true rule is that the statute ignores Sunday, not regarding Sunday service, and the Department follows the same idea by weighing the mails of Sunday as part of the Monday's mail. Sunday is then treated as *dies non*, and the road gets what it would if it did not carry Sunday mails, the same weight on Monday of both days.

This has been, as I understand it, always the practice. The weights of mails on the Sundays within the weighing period have always been counted in the

gross weights to be divided by thirty in order to reach the average. A question has arisen whether, when the last day was Sunday, the weight should be counted on that day. This question could only be raised by so adjusting the date of commencement as to throw one Sunday of the five weeks at the end of the period instead of during its continuance. It does not alter the case in substance. If the Sundays ought to be counted which intervene during the period it is because the weight of the Sunday mail is a part of the weight carried during the week. If the roads are entitled to have four Sundays they are entitled to five. If they were entitled to have seven-sevenths of the mail carried during the week for the first four weeks of the weighing period they are not justly to be reduced to six-sevenths during the fifth week.

Beside it will be seen that this question could only arise in case the weighing is directed to begin on Monday morning. If upon any other day of the week, five Sundays will be weighed within the thirty working days as intervening Sundays. Is it the spirit of this law that the gradation of pay of any particular roads should be determined by the accident of the day of the week on which the weighing began? Or would it be decent or honorable in the Department to resort to such a device to exclude one-seventh of one week's share in the pay by selecting out of the seven the only day in the week which could leave Sunday at the end?

Of course this would be to change the law by a circumstance which in no manner enters into its spirit, or the method established by it for the arrangement of railroads in the scale of annual compensation. This very consideration serves to prove, of itself, to a just mind the necessity of the inclusion of the Sunday mails in the working period of thirty days.

I have constantly maintained, both while I was in the Department and since I have been in the Senate, that the system for the compensation of railroads for carrying mails is most unfair, unjust, and wrong; that it is due to the Government that mails should be carried on a fairer basis. I can not but think, too, that it would be better if the Department might resume the exercise of a discretion which has been so long in abeyance and graduate the rates into many more classes than the statute defines. But that is for Congress, in the main, to determine. While the law stands it would be a pitiful way to pinch off a share, although a small one, that under the law as it is, fairly administered according to its purpose and spirit, belongs to any particular carrier or class of carriers.

The Department has always enjoyed the cooperative effort of the railroads to promote the success of its service, with only now and then a few exceptions. Wisdom, not less than justice, requires they should have what the law awards them, fairly and justly administered.

I know, my dear sir, that all this is familiar to you and that you must fully appreciate the fairness of the considerations urged. Your staunch and fearless adherence to conviction is none the less assured in my mind.

Regretting I failed to have the pleasure of seeing you, and with cordial wishes, I am,

Yours, very truly,

WM. F. VILAS.

JANUARY 5, 1907.

HON. W. S. SHALLENBERGER,

Second Assistant Postmaster-General, Washington, D. C.

MY DEAR GENERAL: Under the act approved June 26, 1906, making appropriations for the postal service for the fiscal year 1907, the following provision of law was enacted:

"That the Postmaster-General shall require all railroads carrying the mails under contract to comply with the terms of said contract as to time of arrival and departure of said mails, and it shall be his duty to impose and collect reasonable fines for delay, when such delay is not caused by unavoidable accidents or conditions."

Will you please advise me what orders have been promulgated by the Department under this authority, and what fines, if any, have thus far been either imposed or collected.

Very respectfully,

JESSE OVERSTREET, *Chairman.*

POST-OFFICE DEPARTMENT.
OFFICE OF THE POSTMASTER-GENERAL.
Washington, D. C., January 5, 1907.

HON. JESSE OVERSTREET.

*Chairman Committee on the Post-Office and Post Roads,
House of Representatives.*

SIR: In reply to your letter of this date, addressed to the Second Assistant Postmaster-General, saying that under the act approved June 26, 1906, making appropriations for the postal service for the fiscal year 1907 the following provision of law was enacted: "That the Postmaster-General shall require all railroads carrying the mails under contract to comply with the terms of said contract as to time of arrival and departure of said mails, and it shall be his duty to impose and collect reasonable fines for delay, when such delay is not caused by unavoidable accidents or conditions," and asking what orders have been promulgated by the Department under this authority, as well as what fines, if any, have thus far been either imposed or collected, I have the honor to advise you that in order to carry out the intent of the part of the act quoted the following order was issued:

"AUGUST 3, 1906.

"Order No. 1131:

"The act making appropriations for the postal service for the fiscal year ending June 30, 1907, provides:

"That the Postmaster-General shall require all railroads carrying the mails under contract to comply with the terms of said contract as to time of arrival and departure of said mails, and it shall be his duty to impose and collect reasonable fines for delay, when such delay is not caused by unavoidable accidents or conditions."

"It is therefore ordered that every railroad company operating a route over which mails are carried shall, on the regular affidavit covering failures of mail-train service which it is required to submit promptly at the end of each quarter to the respective division superintendents, railway mail service, show, in addition to and separate from such mail-train failures, the number of minutes late of each arrival (not time of arrival) of every train carrying mail which has reached the terminus of said route, the terminus of such train's run, or any intermediate point designated by the Postmaster-General and of which the company shall have notice, thirty or more minutes late as many as ten times during the quarter, the extent, cause in detail, and place of each delay being given.

"This order supersedes that of October 2, 1905."

The order was first applicable to the September quarter, 1906, and the affidavits of railroad companies showing delays to mail trains which occurred in that quarter are now being acted upon in the settlement for the quarter ended December 31, 1906.

The number of railroad routes in operation is 3,146. Of the 3,146 affidavits due from railroad companies, 2,400 have been received and examined; 1,808 of them do not show such delays as call for further action on the part of the Department; on 592 deduction cases have been or will be made; 746 are yet to be received and examined.

After careful consideration of the data available, 20 per cent of the value of each train on dates when it arrived late as contemplated by the order quoted has been determined upon as the rate at which deductions should be made.

The total quarterly compensation on routes on which the affidavits received indicate that deductions are necessary in the December quarter settlement, is \$4,604,393.56, and the deductions, at 20 per cent of the value of the trains which were delayed as much as thirty minutes ten or more times in the quarter mentioned, without satisfactory excuse, aggregate \$111,390.85. This amount may be slightly reduced in the event more detailed and satisfactory explanations are offered by the railroad companies.

During the September quarter railroad service as a rule is more regular than at any other period in the year, on account of the favorable weather conditions.

It is believed that the ultimate effect of the act of Congress will be to secure a closer observance of the schedules, although they may in some cases be made slower than at present.

Very respectfully,

GEO. B. CORTELYOU,
Postmaster-General.

JANUARY 5, 1907.

Hon. W. S. SHALLENBERGER,

Second Assistant Postmaster-General, Washington, D. C.

MY DEAR GENERAL: Will you please advise me of the general practice followed by the Post-Office Department in determining the weight of the mails at the various weighing periods under the law, and the method of the computations by which the rate for such payment is ascertained?

Very respectfully,

JESSE OVERSTREET, *Chairman.*

POST-OFFICE DEPARTMENT.
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 9, 1907.

SIR: Receipt is acknowledged of your letter of the 5th instant, reading as follows:

"Will you please advise me of the general practice followed by the Post-Office Department in determining the weight of mails at the various weighing periods under the law, and the method of computations by which the rate for such payment is ascertained?"

In reply I submit the inclosed statement from the Second Assistant Postmaster-General, who is charged with immediate supervision of the transportation of the mails, including the direction of the weighing of the mails and the adjustment of compensation thereon.

In transmitting this information I desire to say that some time ago I directed an investigation of this feature of the Department's work, among a number of other matters concerning which I desired to be advised, and it has been my intention, upon receipt of the necessary data, to request an opinion from the Assistant Attorney-General for this Department and, if thought advisable, from the Attorney-General of the United States.

A question may be asked as to what the difference in compensation to railroad companies would be if the average daily weight were ascertained by using as a divisor the actual number of days, including Sundays, in the weighing period instead of the number of week days, excluding Sundays. In view of the recent discussion in the House on this subject, I some days ago directed that calculations be made as to 100 representative railroad routes covering all sections of the country to show what the compensation would be if the actual number of days, including Sundays, in the weighing period were used as a divisor, and an estimate as to the decrease in compensation for all railroad service on a pro rata basis of the results actually ascertained in the 100 typical routes. I inclose herewith a table showing the result of those calculations.

Very respectfully,

GEO. B. CORTELYOU,
Postmaster-General.

Hon. JESSE OVERSTREET,

*Chairman Committee on the Post-Office and Post-Roads.**House of Representatives.*

Estimated effect on pay for railroad transportation of mail if the average daily weight were based upon the total number of days in the weighing period instead of upon the "working days," as provided by existing law.

Section.	Date from which last adjustment became effective.	Total annual rate for railroad transportation at last adjustment, as shown by body of report of Second Assistant Postmaster-General.	Routes on which rate per mile per annum was \$42.75 or less.		Annual rate for transportation on routes where the compensation was over \$42.75 per mile per annum.
			Num-ber.	Annual rate transportation.	
First.....	July 1, 1905	\$10,253,290.27	237	\$114,290.62	\$10,188,999.65
Second.....	July 1, 1904	4,569,184.64	143	107,064.24	4,462,120.30
Third.....	July 1, 1903	15,728,928.39	162	128,568.78	15,600,359.61
Fourth.....	July 1, 1906	14,357,788.59	206	210,671.94	14,147,096.66
Total.....		44,909,171.79	748	560,595.58	44,348,576.21

Estimated effect on pay for railroad transportation of mail, etc.—Continued.

Section.	Date from which last adjustment became effective.	Number of routes and annual rate for transportation on sample routes.			Pro rata decrease in annual rate for transportation for section if number of Sundays and working days combined are used based on decrease on sample routes.	Percentage of decrease based on annual rate, all routes, at last adjustment
		Number of routes.	Annual rate using number of working days as divisor.	Decrease in annual rate if number of Sundays and working days should be used as divisor.		
First	July 1, 1905	25	\$1,634,122.93	\$197,698.99	\$1,226,638.53	11.96
Second	July 1, 1904	20	915,528.79	98,068.12	477,941.75	10.46
Third	July 1, 1903	30	1,869,673.42	218,381.95	1,780,019.49	11.31
Fourth	July 1, 1906	25	2,253,415.82	266,754.79	1,674,729.69	11.66
Total		100	6,672,740.96	775,852.85	5,159,324.46	11.43

POST-OFFICE DEPARTMENT,
SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, January 9, 1907.

THE POSTMASTER-GENERAL.

SIR: Referring to the letter of the 5th instant from the chairman of the Committee on the Post-Office and Post-Roads, House of Representatives, asking that he be advised "of the general practice followed by the Post-Office Department and determining the weight of the mails at the various weighing periods under the law, and the method of computations by which the rate for such payment is ascertained," the following is submitted:

By section 4002, Revised Statutes (Postal Laws and Regulations, sec. 1164), the Postmaster-General is authorized and directed to adjust compensation for railroad mail transportation at certain rates herein specified, upon the average daily weight of mail carried, "the average weight to be ascertained in every case by the actual weighing of the mails for such a number of successive working days, not less than thirty, at such times, after June 30, 1873, and not less frequently than once every four years, and the result to be stated and verified in such form and manner as the Postmaster-General may direct."

By the act of March 3, 1875 (Postal Laws and Regulations, sec. 1164, par. 4), the Postmaster-General "is hereby directed to have the mails weighed, as often as now provided by law, by the employees of the Post-Office Department, and have the weights stated and verified to him by said employees under such instructions as he may consider just to the Post-Office Department and the railroad companies."

The appropriation act approved March 3, 1905, provided for a longer period of weighing, in the following language:

"That hereafter before making a readjustment of pay for transportation of mails on railroad routes the average weight shall be ascertained by the actual weighing of the mails for such a number of successive working days, not less than ninety, at such times after June 30, 1905, and not less frequently than once in every four years, and the result to be stated and verified in such form and manner as the Postmaster-General may direct."

By section 18, Postal Laws and Regulations, the Postmaster-General has assigned to the Second Assistant Postmaster-General the management of the transportation of the mails, including the direction of the weighing of the mails and the adjustment of compensation thereon.

For the purpose of weighing the mails upon railroads the United States is divided into four sections, and in some one of these sections the mail is weighed each year, and upon the weights ascertained the compensation of the railroad companies is stated for a period of four years. When the weights are about to be taken this office causes the weighers to be carefully selected, first taking the substitute railway postal clerks, and thereafter, as far as practicable, selecting persons whose names appear on the eligibles for appointment as substitute railway mail clerks.

These weighers are placed in the mail cars and railroad stations and are furnished with cards upon which are to be entered the weights of mails taken on and put off the trains at each station. The weighers in the cars take these

weights under the supervision of the head clerk. The cards are forwarded daily to the chief clerk in charge of the lines, by whom they are sent to the division superintendent railway mail service, and in his office a corps of clerks consolidate the weights shown by the cards for the several trains and the several days in the weighing period so as to show the total weight put on and the total weight put off all the trains at each station for each day of the entire weighing period. These consolidated weights are entered upon what is known as the "weight" circular, one for each route, and the weight circulars are forwarded to the division of railway adjustments, Post-Office Department. There the weight circular is taken together with the distance circular showing the distances between the several stations of each route, and calculations are made to determine the average weight carried over the entire route. Then to determine the average weight of mails per day carried over the entire route the average weight carried over the entire route for the entire weighing period is divided by the number of "working days" (to use the language of the statute)—that is, the number of week days, excluding Sundays, during the weighing period.

The question as to whether the average daily weight contemplated by the statute is correctly ascertained by the present practice of dividing the total average weight carried over the entire route by the number of week days, excluding Sundays, within the weighing period or whether the average daily weight would be more correctly determined by dividing the total average weight carried over the entire route by the total number of days, including Sundays, during the weighing period has frequently been discussed and was recently referred to on the floor of the House. It has been contended by some that the average should in every case be obtained by using as a divisor the actual number of days in the weighing period. It can not be denied that this would produce an average daily weight for that period, but the question is whether this would produce the average intended by the statute, and in order to ascertain this not only the special language of the statute providing for an annual rate of pay based upon an average daily weight to be ascertained by an actual weighing of the mails for a certain number of "successive working days" should be considered, but also the history of the manner of adjusting compensation for railroad service which preceded the act of 1873, the extent to which it was incorporated in the act of 1873, and the contemporaneous statements of Postmasters-General with reference thereto.

When this is done it seems that no doubt can remain that Congress intended that not the whole number of days within the period of weighing should be used as a divisor, but the number of working days within such period. Such examination will show, I think, that under conditions where there are railroad mail routes upon which there is both week-day and Sunday service and week-day service alone, the specific language of the statute requiring a weighing to be had for a number of "successive working days" is practically meaningless unless it governs to that extent the manner of computing the average daily weight. It will also show that the long-established practice of the Department, under the laws which were superseded by the act of 1873, was to classify railroad service upon that basis; that the law of 1873 in this respect practically adopted the practice which had theretofore so obtained, and that the actual administration of the law from the time of its passage was a continuation of the methods so adopted.

At the time of the institution in 1867 of the system of weighing the mails in order to arrive at a basis of classification for compensation for service the law of March 3, 1845, section 19, was in force, which provided that—

"To insure as far as may be practicable an equal and just rate of compensation, according to the service performed, and on the several railroad companies in the United States for the transportation of the mail, it shall be the duty of the Postmaster-General to arrange and divide the railroad routes * * * into three classes, according to the size of the mails, the speed with which they are conveyed, and the importance of the service."

In order to more accurately determine the "size of the mails" so conveyed, the Post-Office Department issued in 1867 to railroads a "railroad weight circular," requesting them to weigh the mails for "thirty consecutive working days" and report the results to the Department, together with description of accommodations furnished, etc. The majority of the railroads complied with the request (report of the Postmaster-General for 1867, pp. 10, 11). Computations of the average daily weight were made upon these returns (pp. 72 to 91, inclusive). An examination of the departmental records and reports shows that the instructions were to weigh for "thirty consecutive working days," and that in computing the average daily weight thirty was used as 1

divisor; therefore, the weights were taken for every day of the period measured by the "thirty consecutive working days," including the Sundays, but the divisor was thirty or the number of consecutive working days.

The results of this weighing and computation became the basis for the first readjustment by classes, determined by the average daily weight, under the law of 1845. The Postmaster-General, in his report for 1868 (p. 10), says:

"The 30th June, 1868, being the period for the expiration of the term of contracts for transporting the mails in the States of New Jersey, Pennsylvania, Delaware, Maryland, and Ohio, the Department, in anticipation of the close of the term, entered upon a systematic revision and readjustment of the rates of pay on railroad routes in those States, based upon returns of the weights of the mails conveyed and the accommodations provided for mails and agents of the Department, received in response to the 'railroad-weight circular' referred to in the last annual report (p. 11)."

This readjustment is shown on pages 66 to 69 of his report of 1868.

At the time of this weighing and first readjustment upon this basis, as well as at all subsequent times, there was week-day and Sunday service upon some routes and week-day service only upon others.

The Postmaster-General's reports for the succeeding period until the passage and first administration of the act of 1873 (reports of Postmasters-General, 1869, pp. 10, 78 to 90, inclusive; 1870, pp. 10, 11, 82 to 98, inclusive; 1871, pp. V, VI, 48 to 65, inclusive; 1872, pp. 10, 11, 100 to 123, inclusive; 1873, XII, 70 to 93, inclusive), as well as the files of this office, show that for each year the routes in the expiring contract section were weighed, the average daily weights calculated, and readjustments made in a similar manner.

The first weighing under the law of 1873 began October 1, 1873, and was ordered for "thirty consecutive working days" (report of Postmaster-General, 1874, p. 8). The returns were received, and the computations and readjustments were made under the provisions of the law (pp. 108 to 183, inclusive).

In making these computations and adjustments the divisor used was the same as that which had theretofore been used, namely, thirty days. The reports and records for the succeeding years show the same character of weighing and the same manner of computation and adjustment.

It is apparent from these facts that the same system of weighing the mails, and of computing the average daily weight upon the returns for a certain number of "consecutive working days" which had obtained in the Department for years before the passage of the law of 1873 was practically adopted by that law and continued without change in the administration of the same. For this we have not only the logic of the facts, but the statement of the Second Assistant Postmaster-General for the year 1878, who states on page 61 of his report: "In 1867 the service rendered by railroad companies was gauged by the system substantially embodied in the act of 1873."

It should be borne in mind that the whole question of proper compensation to railroads for carrying mails was before Congress at two different times during this period, upon which occasions reductions in the rates were made. By the acts of July 12, 1876, and June 17, 1878, Congress reduced the rates provided for by the act of 1873 by a flat reduction of 10 per cent and 5 per cent, respectively. I think it must be assumed that such action could not be taken by Congress without thorough information upon the subject in all its details, including the construction placed upon the act of 1873 by the executive officers and the details of administration, yet the reduction effected was by a flat rate of deduction and not by any change in the law which would necessitate a different construction and practice with reference to the manner of computing the average daily weight.

This construction and practice continued without question, so far as the facts are known in this office or disclosed by the reports and records, until 1884. The reports of the Postmaster-General show that during this time the question of adequacy or inadequacy of railroad rates, and of desirable revision of the law, was given much attention by the Department. There is no suggestion in any of these reports that there was an incorrect method of computing the average weight the correction of which would reduce the pay of railroads. This is also confirmed by reference to the annual report of Postmaster-General Hutton, 1884; Vilas, 1885 and 1886; also the reports of the several Second Assistant Postmasters-General for those years. It will be noticed further by reference to the report of the Second Assistant Postmaster-General, Knott, 1866, that this subject of rates for railroad mail transportation had been before the Senate Committee on Transportation in 1874, the special commission appointed by the President under the act of 1876, known as the "Hubbard Commission,"

and the commission of 1883, composed of officers of the Post-Office Department. The whole subject subsequently received the careful examination of a joint commission of Senators and Representatives in Congress, reference to which is made in the Postmaster-General's report for the year 1906, as follows:

"By section 5 of the act of June 13, 1898, making appropriations for the service of the Post-Office Department for the fiscal year ended June 30, 1899, Congress authorized the appointment of a commission, consisting of the chairman of the Committee on Post-Offices and Post-Roads of the Senate and House of Representatives and three members of the Senate and three members of the House, 'to investigate the question whether or not excessive prices are paid to railroad companies for the transportation of the mails and as compensation for postal car service, and all sources of revenue and all expenditures of the postal service, and rates of postage upon all postal matters.'

"This Commission held extended hearings for a period of several years and examined witnesses from all available sources, including expert statisticians, and submitted its report to Congress in 1901. Congress has taken no action on this report nor on the one preceding it."

Among these Postmasters-General were not only several eminent lawyers, such as Mr. Vilas and Mr. Bissell, but men eminent in business affairs and who gave special study to the question, and who concluded that the practice was not only justified by the law, but the only one that would be equitable and just under the circumstances.

In September, 1884, Postmaster-General Gresham issued an order to become effective at the next weighing, as follows: "That hereafter when the weight of mail is taken on railroad routes performing service seven days per week the whole number of days the mails are weighed, whether thirty or thirty-five, shall be used as a divisor for obtaining the average weight per day."

Postmaster-General Gresham retired from office soon thereafter. Postmaster-General Hatton succeeded him October 14, 1884. He submitted the order to the Attorney-General with a statement and illustration of the practice which had prevailed in tabulating weights from the time the law became effective. On October 31, 1884, the Acting Attorney-General rendered an opinion sustaining the practice of the Department, in which he said:

"I have considered your communication of the 22d instant, requesting to know whether the construction placed by the Post-Office Department on section 4002, subsection 2, prescribing the mode in which the average of the weight of mails transported on railroad routes shall be ascertained is correct, and am of the opinion that that construction is correct, and that a departure from it would defeat the intention of the law and cause no little embarrassment."

This opinion was published by the Postmaster-General, who revoked the order of Postmaster-General Gresham, above referred to, and the practice has continued since as theretofore.

While Mr. Vilas was in the Senate, as is well known, he gave the subject of railroad mail pay very careful consideration and insisted upon amendment of the law. During this time he addressed a letter to the Second Assistant Postmaster-General upon this particular subject of the manner of computing the average daily weight, in which he treats the subject at great length. One paragraph, however, is sufficient to indicate his views. This is as follows:

"The only question is, how the weight of mails carried on Sunday shall be treated in the computation. Are they to be reckoned at all? Assuredly. Unless they be reckoned the Government will pay nothing for the carriage. Then are they to be reckoned as if Sunday were a 'working day?' If so, the statute is violated by the inclusion of Sunday as a 'working day.' Still more, a gross injustice is done to that class of roads which renders the greatest and best service to the Department. That would be to grade the carriers upon an average of weights whereby the roads which rendered less service are put above them proportionately. The roads which in six days carry all the mail sent over them during the week would be awarded an average of one-sixth of such week's total weight, whereas the roads which, to favor the Department, run an additional day to carry the week's mail would find their week's total weight averaged at one-seventh, the proportion thus being in favor of the company with the least claim for consideration. This can not be the design of the statute."

At all times since the passage of the act of 1873 there have been routes of both kinds, though the proportion upon which daily, including Sunday service, is maintained has increased. The reports and records show that at the time of the first weighing in 1867 and at the times of the several weighings

since, including the weighing upon which the first readjustment under the law of 1873 was made, there were a number of routes upon which Sunday service was maintained as well as routes upon which only week-day service was rendered. At present in the State of Pennsylvania there are 56 routes upon which mails are carried every day in the year, more or less Sunday service being performed on such routes. In the same State there are 190 routes upon which mails are carried only six days out of seven, the mails originating and accumulating between 12 o'clock Saturday night and 12 o'clock Sunday night being weighed and tabulated with the mails carried on Monday. In the State of New York 78 routes have Sunday service and 81 routes six days a week service. In the States comprising the Middle West, the section of the country in which mails will be weighed within the next few months, there are 374 routes which had Sunday service at the last weighing, and 428 routes which were without Sunday service—in other words, which relied upon six days a week service as fulfilling proper conditions justifying the legal rate of pay.

In the practice of the Department, railroads which do not carry mails on Sunday are held to be entitled, under the decision of the Attorney-General and the long-prevailing practice, to have all mail matter originating and accumulating during Sunday added to the Monday tabulation of weights, for the reason that weighing of the mails must be constructively on working days, and therefore mails carried on Sunday are mails which otherwise would be carried on Monday and which if railroads did carry on Monday they would receive pro-rata compensation for. If any other practice were adopted with reference to this six-day-a-week service, it is apparent that if Sunday service were inaugurated upon such routes and the mails were dispatched upon Sunday trials and thereby reached destination earlier than they otherwise would, notwithstanding the Department would gain by this expedition of the mails, the railroads would lose by having the average weight reduced by a divisor of 7 instead of 6.

In view of this condition of the service, the intention of the law as disclosed by the history of the subject and the practice and construction placed upon it by the Executive officers who were charged with its execution, of the contemporaneous declaration that in this respect the law adopted the practice which existed before its passage, and of the long-continued and unbroken maintenance of this construction upon the highest legal authority, I have to submit that the average daily weight as ascertained by the existing practice of the Department is the correct one contemplated by the statute.

Very respectfully,

W. S. SHALLENBERGER,
Second Assistant Postmaster-General.

Adjourned at 1.45 p. m.

AFTER RECESS.

STATEMENT OF HON. W. S. SHALLENBERGER—Continued.

(Mr. Shallenberger was accompanied by George F. Stone, chief clerk, Second Assistant Postmaster-General's office; Alexander Grant, assistant superintendent of Railway Mail Service; and James H. Crew, superintendent of railway adjustments.)

The CHAIRMAN. Does any member of the committee desire to interrogate General Shallenberger with reference to the statement which he made at the morning session?

Mr. STAFFORD. I desire to do so, Mr. Chairman.

The charge made by the express company, to which you referred, for the carriage of newspapers, is limited to the line over which the express company has sole jurisdiction, is it not?

Mr. SHALLENBERGER. I can not answer; it is not so limited in regard to any other traffic. I can send a package by express across the continent through several express company lines on a rate given me by the initial company.

Mr. STAFFORD. I think, upon inquiry, you will find that the low

rate to which you referred, made to newspaper publishers for the carriage of newspapers, is limited to the line over which they operate.

Mr. SHALLENBERGER. I think you are correct. The low rate is not only limited to the system, but is sometimes limited to a zone within the system.

Mr. STAFFORD. Can you state what that zone is?

Mr. SHALLENBERGER. No; I can not.

Mr. STAFFORD. Or, can you approximate the extent of the zone?

Mr. SHALLENBERGER. I can not. I only know that the testimony before the Commission dealt pretty largely with that subject, and I would have to refer to that testimony.

Mr. STAFFORD. How could the plan that you suggest of charging a diminishing amount for the carriage of mail when it comprises second-class matter to be put into operation?

Mr. SHALLENBERGER. When the weights are tabulated on any given route they would be held to include a certain per cent of second-class matter, that percentage being reached from an actual weighing of the several classes. Such weighing did occur in 1899 and is likely to be repeated in 1907.

Mr. STAFFORD. But in the weighing of mails, as now established, you do not distinguish in the weight of the mails between the different classes?

Mr. SHALLENBERGER. We can not.

Mr. STAFFORD. Nor do you?

Mr. SHALLENBERGER. Nor do we.

Mr. STAFFORD. So it would be based entirely upon the investigations you have made, or some other investigation to be made, of the character and the weight of the various kinds of mail by classes?

Mr. SHALLENBERGER. It would be based at this particular time on an actual weighing of all the mails throughout the country at one time in the year 1899, regardless of the weighing in particular sections, for the purpose of adjusting pay. That was a special weighing of mails to determine the aggregate weight of mails originating in a given period throughout the entire country, and the classification of such mails. Now, such weighing of mails is contemplated, as I understand, by certain members of Congress at this time. Possibly the Postal Commission will include in its report a recommendation for a weighing to occur in the near future, similar to that which occurred in 1899, only more elaborate in its details, so that we shall have not only the several classes but the subdivision of classes; not only weights but average haul, and other information that they may determine upon.

My suggestion is that in any weighing of any year, based upon the weighing of 1899, until there shall be a later weighing in the future, we may determine the actual percentage of second-class matter passing over any route; and when the aggregate mail matter of that route has been tabulated, that percentage of the aggregate as constitutes second-class matter, shall be stated at the reduced compensation, whatever that may be.

Mr. STAFFORD. Can you give any reason why you should not also make a like distinction as to the weight of third and fourth class matter?

Mr. SHALLENBERGER. I should only offer as a reason the principle prevailing, as I have said in the beginning of my remarks, through-

out the Universal Postal Union and throughout our own postal administration, as relates to ocean carriage of mail matter—the principle which prevails in all commercial transactions, which is, that the quality and character of matter determines the rate at which it may properly be carried, high-grade matter being carried at a high rate of compensation, and the lowest-grade matter being carried at the lowest compensation. Hence I say that newspapers and periodicals, which are transient, which are of comparatively little value—as, for instance, newspapers, which could not be sent any distance at all to compete with local papers unless they could be sent at very low rates—that particular class of matter which is now carried by express companies at a very low rate should also be carried by the Government at a much lower rate.

POSTAL REVENUE.

MR. STAFFORD. I call your attention to the figures that you read from, as found at page 17 of your report for the past year, in which you claim that the diminishing per cent of expenditure for charges of transportation and rental of postal cars, as compared to the gross postal revenue, showed that a saving was being made in the expenditure made for railway transportation, and in connection therewith I wish to ask you this question:

Does it necessarily follow that because the postal revenues increase there is correspondingly added service for railroad transportation and postal-car facilities?

MR. SHALLENBERGER. I think it does, for the reason that the postage revenue determines the volume of mail, except free matter.

MR. STAFFORD. Is it not a fact that with the growth of the mail service in the past twenty-five years there has been a greater percentage of revenue received from the growth of purely drop mail, mail for local delivery in the cities, and that the gross postal revenue is not any accurate criterion on which to make any such calculation as you have made on page 17?

MR. SHALLENBERGER. I have no figures, and I think there are no statistics on which to base that assumption.

MR. STAFFORD. You use these figures upon the assumption that with the increased postal revenues there must necessarily increase added quantities of mail to be carried over the railroads in like proportion or exceeding proportion?

MR. SHALLENBERGER. Not in like proportion, necessarily, but it may fairly be assumed that it would be substantially the same proportion. I will also add that the information I received upon making just such an inquiry from one of my leading officials was that in the last six years the proportion of mail carried by railroads in many cases was larger, for the reason that every year we are taking up more or less star service on new railroads lines and steam railroad lines are being substituted throughout the entire country for other means of transportation—river steamboat transportation and star transportation.

MR. STAFFORD. The substituted service of railroad for star service would be but a very small percentage of the large increase of mail by reason of the great extension of business during these past years which has resulted in increased postal matter.

MR. SHALLENBERGER. True; but you will remember that the large

increase in mail matter is from the leading commercial centers. That goes to the rapidly building sections of the country, such as Oklahoma and Texas and distant points, involving long hauls.

Mr. STRATFORD. It goes more, in a larger degree, to the commercial centers and small commercial centers situated throughout the manufacturing districts of the country; not so much to the agricultural as to the manufacturing and commercial districts east of the Mississippi rather than west of the Mississippi, does it not?

Mr. SHALLENBERGER. I scarcely know just what your reference now is. To what class of mail matter do you refer—all classes?

Mr. STAFFORD. The same class of mail that you were referring to. As a general proposition, instead of this increase going to Oklahoma and a character of country like that, does it not go, by reason of the increased business, to the growing industrial and manufacturing and commercial centers east of the Mississippi?

Mr. SHALLENBERGER. All such questions, which are hypothetical, and which we have no statistics to justify me in a careful statement about, must be determined by an actual weighing. Such a weighing did occur in 1899. Such a weighing I hope may occur in the near future.

In 1899 we have the actual figures to this effect: That 86.04 per cent of mail originating in the country, including all the cities, actually went on railroads. Now, if we should have a weighing in the near future, that per cent, as you have intimated, might be increased; I do not know.

Mr. STAFFORD. Or it might be diminished?

Mr. SHALLENBERGER. Or it might be diminished. Whether it is or not, I claim that it is the very best basis which we can have for determining how much mail matter actually does go upon the railroads.

I have made a little table—I did not furnish it before, but I can furnish it now—which adds to what I have already said, the statement that out of the 86.04 per cent of mail which actually did go to the railroads, the percentage of the pro rata revenue which was used by the Second Assistant's office for transportation of railway mail and for postal cars was 42.15 per cent in the year 1900. In the year 1906 the proportion of revenue from that class of mail which went to the railroads for those two services was 32.40 per cent, or a reduction of 10.25 per cent in six years.

(At this point Mr. Shallenberger produced the following table, which, by direction of the committee, is made a part of the record:)

Fiscal year.	Postal revenue.	86.04 per cent carried by railroads.	Expenditure for railroad transportation and postal cars.	Percentage.
1900	\$102,354,579.20	\$88,066,879.94	\$37,123,277.27	42.15
1906	167,882,782.95	144,489,366.45	46,825,994.19	32.40

	Per cent.
Special weighing, 1900, report shows:	
Weight of mail matter from which revenue is derived	43.69
Weight of mail matter from which no revenue is derived	56.31

WEIGHING OF MAILS.

Mr. STAFFORD. If I understood the statement which was prepared under your direction, and which was sent to the committee and read this morning, bearing date January 9, it was the practice, in tabulating the mail, up to sometime in the seventies, to divide by 30 for thirty working days?

Mr. SHALLENBERGER. The records of the Department show that between 1867 and 1873, when the law was passed, that was the practice.

Mr. STAFFORD. Prior to 1873, if you recall, was there any provision of law as to the character of days on which the mail should be weighed—whether working days, or all days, or the number of continuous days?

Mr. SHALLENBERGER. I should refer you to the statement for an answer to that question. It quotes the law.

Mr. STAFFORD. I do not recall any mention having been made in the statement as to whether there was any law up to that time; but I do recall, if I remember correctly (and I followed the statement very closely), that it was originally inaugurated by departmental regulation. Now I am trying to ascertain when the law was passed which is now found on the statute book.

Mr. SHALLENBERGER. My impression is that it was established by departmental regulation until the law of 1873.

Mr. STAFFORD. Did the law fixing the basis of pay of 1873 also characterize the days on which the weighing should be computed?

Mr. SHALLENBERGER. It characterized the working days as the only days on which mail should be weighed.

Mr. STAFFORD. It was in one and the same act, was it?

Mr. SHALLENBERGER. In one and the same act.

Mr. STAFFORD. Will you kindly amplify your suggestion as to the reduction in pay on those routes which carry more than 5,000 pounds and up to 200,000 pounds, and a lower rate based on the proportion of second-class matter carried, and state the reason why you make that suggestion?

Mr. SHALLENBERGER. I may not be able to state it in the words that I used; but I will state the thought in my mind.

Mr. STAFFORD. Just generally; because it was the wish of the members of the committee not to interrupt you, so as to have a connected statement in the record, and we now wish to have you make it a little fuller.

RAILWAY-MAIL PAY.

Mr. SHALLENBERGER. My statement was that in the event the committee decided to continue the present law in its method of tabulation and weighing, I would suggest, as a method of reducing railway mail pay equitably, that on all roads carrying 5,000 pounds of mail daily, or over, and under 200,000 pounds of mail daily, as an average, a reduction from the lawful rate to a given per cent (say, 25 per cent, if that should be the decision of the committee) be declared on such percentage of the aggregate mail as the last weighing of mail in the entire country determined was the percentage of second-class matter carried on railroads, that being, under the last weighing, twenty-eight and a fraction, with the understanding that any subsequent weighing of mails throughout the country should be relied upon as

the basis for determining what percentage should thereafter determine the amount of mail on any route that will be subject to that reduction. Then, on routes where 200,000 pounds or more were carried, a higher rate of reduction should attach to that percentage of mail matter, assuming that according to the principle which I have stated prevailing in the business world and in the Universal Postal Union the lowest grade of traffic and the greatest daily weight should be carried at the lowest rate per ton.

Mr. STAFFORD. In England and on the continent do the railroads receive less pay by reason of the character of the mail?

Mr. SHALLENBERGER. I am not able to say, because I have not in mind the contracts for land carriage; but I stated that in the Universal Postal Union the pay on all the ocean routes provided by the convention was 44 cents per pound for letters and $4\frac{1}{2}$ cents per pound for prints, there being included in "prints" all except letters. That was based, of course, upon the principle which I have stated, that the low-grade traffic should have the low rate of transportation, although included in the same bag, on the same steamer, and in the same space on the steamer.

Now, I say, applying that principle, which this Government has assented to in being a party to the Union, also the principle which has been established by our own law, which provides that the sea and land postage shall be the remuneration of steamers carrying the American flag—assuming that that principle should be engrafted upon the land carriage of mails—there would seem to be a reason why a differential rate should be made on that class of matter in our own legislation.

Mr. STAFFORD. How are the weights of these two respective classes of mail determined as a basis for computation of pay to the steamships for the carriage of mail?

Mr. SHALLENBERGER. By weighings which occur at every dispatch.

Mr. STAFFORD. How often are those weighings made?

Mr. SHALLENBERGER. At every dispatch actual weights are taken.

Mr. STAFFORD. Are the various classes of mail separated, so as to determine the weight of each respective class?

Mr. SHALLENBERGER. The weights of the two classes which I have referred to, letters and prints, are determined at every port of dispatch, on every single dispatch of mail that goes.

Mr. STAFFORD. Are there any other classes of mailable matter going abroad besides prints and letters?

Mr. SHALLENBERGER. There are none recognized in the law of compensation.

Mr. STAFFORD. Under the category of "prints," would merchandise be included?

Mr. SHALLENBERGER. Prints and periodicals; merchandise is not included. Samples of merchandise which are very limited in weight are included in the term "prints."

Mr. STAFFORD. Under what classification do you get authority to send parcels post?

Mr. SHALLENBERGER. We get that under the print regulation.

Mr. STAFFORD. Does not that consist of merchandise?

Mr. SHALLENBERGER. That consists of merchandise; but that is a separate convention. It is not the Universal Postal Convention. Our Universal Postal Convention authorizes the various governments of

the Union to conclude between themselves separate parcels post conventions.

Mr. STAFFORD. What rate is paid the steamship companies for the carriage of mail that is included under parcels post?

Mr. SHALLENBERGER. Four and one-half cents per pound.

Mr. STAFFORD. The same as for prints?

Mr. SHALLENBERGER. The same as for prints.

Mr. STAFFORD. You referred to the case of the Long Island Railroad as being an instance where the pay is incommensurate for the service rendered.

Mr. SHALLENBERGER. Where it is claimed that it is.

Mr. STAFFORD. Can you state whether the total amount of mail carried on that route brings it within the lower classes or in the upper class of pay?

Mr. SHALLENBERGER. I will ask Mr. Grant to state whether there is not a very large proportion of service on the Long Island system in apartment cars?

Mr. STAFFORD. My purpose is this—to ascertain whether the aggregate amount of mail carried on that route is such as to entitle it to the lowest rate, or whether they are in the higher category of pay.

Mr. GRANT. It carries a very fair amount of mail, but it is divided up among so many trains that separate handlings of small parcels imposes a greater expense upon the company.

Mr. STAFFORD. You have referred quite frequently to Senator Vilas—not in your statement, but in the letter that was referred to in the hearings. Can you state what amendment he proposed for the readjustment of mail pay?

Mr. SHALLENBERGER. I can not.

Mr. STAFFORD. Do the records of the Department show anything as to what his proposed plan was?

Mr. SHALLENBERGER. I am not prepared to say that the records do show. I have only been advised that in discussing the question with departmental officials he, as well as Mr. Loud, and as well as some of the former officials of the Department, were inclined to think that much more emphasis should be laid on space rather than on weight than we are now doing, and that in the minds of some of them it was the conclusion that the basis for pay should be space alone rather than weight.

Mr. STAFFORD. Do you state that the present schedule of pay is not according to weight per pound, but more on a basis of pay for space?

Mr. SHALLENBERGER. As a basis of pay for service rendered. Now, in "service" we not only include space in the car, but we include space in the depot. We include what is called "side service," messenger service to and from post-offices. We include all those factors in what we call "service," and they must all be considered when making a contract with a railroad for annual compensation. In Great Britain the postal administration and the railroads consider together all the various items of service, and then they agree on what, for the service as a whole, would be an adequate annual compensation.

Mr. STAFFORD. In any country abroad do you know whether there is any system of zone charges established, so far as other classes of mail than letters are concerned?

Mr. SHALLENBERGER. Yes; in Germany I found that there were six zones for the carriage of parcels-post mail.

Mr. STAFFORD. Were they equal-sized zones—that is, did they increase by the same distance in concentric circles?

Mr. SHALLENBERGER. I am not able to say, but I think not, and the zone charge did not apply until parcels had reached a weight over 11 pounds. On all parcels of a weight of 11 pounds and under there was no zone rate.

Mr. STAFFORD. Was there any zone rate as to any other character of mail than parcels?

Mr. SHALLENBERGER. I think not.

Mr. STAFFORD. Not as to newspapers or periodicals?

Mr. SHALLENBERGER. I think not. The theory was that when a parcel reached 11 pounds or more it was possible then to treat it as a separate package, and, like the express companies do here, to bill it regularly. But on the small parcels it would be apparently an impossibility to have a zone rate for each one of those little parcels.

Mr. STEENERSON. You have explained in this letter the practice of the Department in ascertaining the daily weight of mails on the different routes. Am I correct in this understanding—that the unit is the daily weight, regardless of the frequency of the dispatch of mail over the route during that day? In other words, the pay would be the same if there were 24 dispatches of mail over the route (that is, a mail every hour) as if there were only one dispatch of mail over the route in twenty-four hours? The weight being the same in both cases, the pay would be the same whether it was dispatched 24 times or once during the twenty-four hours?

Mr. SHALLENBERGER. That is correct; once in each direction, of course.

Mr. STEENERSON. Yes. Now, that ignores the element of train or car mileage in the service, does it not?

Mr. SHALLENBERGER. Yes; I think so.

Mr. STEENERSON. Do you think it would be practicable to also take into account, if a new method was devised, the mileage that the cars make, and the frequency with which the mail was carried during the twenty-four hours?

Mr. SHALLENBERGER. I shall ask Mr. Grant, who is a thoroughly educated postal official, to say whether, in his judgment, that would be practicable. Then I may have a word to add.

Mr. STEENERSON. It is now recognized that the service is more efficient where the dispatch is more frequently than once in twenty-four hours than where it is only once in twenty-four hours, is it not? It is a more valuable service?

Mr. SHALLENBERGER. Yes; I think the law reads:

That the mail shall be conveyed with due frequency and speed, and that sufficient and suitable room, fixtures, and furniture in a car or apartment, properly lighted and warmed, shall be provided for railway postal clerks to accompany and distribute the mails.

In the administration or construction of that section—1164—the Department holds this rule: That one round trip per day on roads which have but one train scheduled shall constitute a sufficient service to entitle them to the compensation provided by law, but that where a road schedules two or more trains, mails may, and as a rule are carried on all trains, and especially on the best trains. We estimate the train values separately, while we weigh the entire volume of mail carried by any number of trains within the twenty-four hours and

base our annual compensation on total weight carried during the twenty-four hours. We also take note of the value of each train during the weighing period, so that after the period of weighing we feel justified in expecting that that like frequency shall be maintained, and should there be a failure of any one of those trains, deductions, and if necessary, fines are imposed. In that way we construe the section to justify the Postmaster-General in demanding "due frequency."

Mr. STEENERSON. I understand that this section, then, comes in and in effect modifies the requirements of the other section which contemplates only daily mails?

Mr. SHALLENBERGER. It rather, as construed by the Postmaster-General, leaves it within his discretion to say what shall be "due frequency" on a given road and over a given route. In other words, we give attention to the fact that a road publishes say a fast schedule at the time of or previous to the weighing, and we may divert certain mails to that road which had been carried by a competing road for years. Now, if for any reason, after the period of weighing, the road decides to withdraw that train before we have made our adjustment of pay some months later, we deduct the entire weight of mail carried by that particular train during the weighing from the aggregate weight carried. We have not had to do that in more than one or two cases, but you can readily see why we should have that power. It quiets the suspicion that a road, a few months or a month previous to the weighing, would think of scheduling a train for the distinct purpose of taking mail from a competitor on a fast schedule, with the intent to withdraw that train soon after the weighing. Now, while there are, we apprehend, few roads that would think of that, still, lest it might be done, we take especial note of every such fast train and its weight of mail.

Again, the inspection division of my bureau classifies the train service on the various routes by a percentage of value attaching to each train; so that, if for any reason, a train fails a proportionate deduction of its pay is made, subject to satisfactory explanation.

Mr. STEENERSON. The only effect, then, of dispatching mail more frequently than once a day over a route would be that it might attract more mail and thereby increase the total weight?

Mr. SHALLENBERGER. It might and it does.

Mr. STEENERSON. And it does?

Mr. SHALLENBERGER. And it does.

Mr. STEENERSON. But where they did that for the purpose of artificially increasing the quantity of mail transported during the weighing period, you would have your remedy, as you have suggested, there?

Mr. SHALLENBERGER. Yes.

The CHAIRMAN. The committee will now take up the items of the bill in the order in which they appear in the skeleton bill for inquiry.

Mr. SHALLENBERGER. I will ask Mr. Stone to proceed on that part of the bill, as he has special charge of it.

STAR ROUTES.

The CHAIRMAN. In your recommendation for inland transportation for star routes, you ask for an increase of \$178,000, or 2.45 per cent increase over the current appropriation. What is the explanation of that proposed increase?

Mr. STONE. In that connection it should be noted that it is expected that there will be a deficiency for the current year of approximately \$255,000, so that the estimate submitted for next year is less than the probable expenditure for this year by \$77,000. The expected deficiency for the current year is due to two factors: First, that the appropriation is \$120,000 less than was estimated by the Department; and, second, that the estimate for the current year, which was prepared in August, 1905, was based, in part, upon the assumption that the star service which would be discontinued by reason of the establishment of rural delivery during the fiscal year ending June 30, 1906, would be substantially the same as that in the preceding year. But the reduction in annual rate proved to be less by \$153,000.

The CHAIRMAN. Why was not the reduction due to the increase of rural service as high as it was the preceding year?

Mr. STONE. It has been decreasing for the last three years. The star service that was superseded by reason of the establishment of rural delivery in 1904, was, in round figures, \$579,000 in annual rate. In 1905 it was \$535,000; and in 1906, the last year, \$382,000. So that it has been decreasing for the past three years.

The CHAIRMAN. But ought not the star service to decrease more rapidly as the rural service increases?

Mr. STONE. I think not. When the rural service first began to be established it naturally went into the most thickly-settled portions where there were more star routes that would be superseded. But now that the rural service has been in operation for quite a number of years, as it is established, there is less star service to be superseded.

The CHAIRMAN. But has not the department of the Second Assistant Postmaster-General been less inclined to discontinue the star service in the past two or three years than it was in former years, even where conditions were the same?

Mr. STONE. On the contrary, you will remember that the appropriation for the current year contained a provision on that subject,

That no part of this appropriation shall be expended for continuance of any star service the patronage of which shall be served entirely by the extension of rural-delivery service; nor shall any part of said sum be expended for the establishment of new star service for patronage which is already entirely served by rural delivery.

Immediately after the passage of that law the Second Assistant's bureau sent out inquiries to the postmasters on all star routes 15 miles in length and under to ascertain whether they were covered wholly by a rural carrier. The length of 15 miles was selected because if a rural carrier travels up 15 miles and has to make a return trip, he will be traveling approximately 30 miles; and it was believed that very few rural routes were as long as that.

Wherever the replies received from postmasters indicated that the route was entirely covered by a rural carrier we reported that fact to the Fourth Assistant Postmaster-General, who has charge of the rural service, and asked whether the patronage of that route could be entirely supplied by the rural service within the meaning of the law. Wherever the Fourth Assistant reported that it could be, the Second Assistant's office discontinued the star service. In that way 70 routes were discontinued, aggregating an annual rate of expenditure of \$17,039. There were some other routes in which we

issued the order to discontinue, or did discontinue, and afterwards it was shown that the patronage was not entirely supplied by the rural service under the law as construed by the Assistant Attorney-General, and that service was restored. The figures that I have given you are the net results of the action under that law.

The principal item of increase for the current year—

The CHAIRMAN. Before you reach that, the proviso to which you have just referred was prompted, was it not, because it was not thought that the discontinuances of star service were rapid enough where rural service was inaugurated; and it was rather to stimulate your bureau to act on that line that the proviso was inserted in the law?

Mr. STONE. Of course I do not know what the thought of the committee was; but we have carried out the law the best we could.

The CHAIRMAN. Has your bureau declined, in many instances, to discontinue star service where such discontinuance has been recommended by the Fourth Assistant Postmaster-General, who has charge of the installation of the rural service?

Mr. STONE. Within the past year?

The CHAIRMAN. Yes, sir; within the current year, during the current fiscal year?

Mr. STONE. I presume there may be some instances of that kind. I do not recall any specific case of that kind. If so, it is for reasons which we—

The CHAIRMAN. The practice has been, has it not, for the Fourth Assistant, when the installation of rural service has been authorized, to make recommendation through the proper channel coming to the Second Assistant's office for the discontinuance of star service?

Mr. STONE. It has been, and almost invariably his recommendation has been followed.

The CHAIRMAN. Has it not been followed almost invariably?

Mr. STONE. Almost invariably.

The CHAIRMAN. One would naturally suppose, would one not, that the heavy installation of rural service would have resulted in more discontinuance of star service?

Mr. STONE. I think not, for the reasons stated.

The CHAIRMAN. Does the installation of rural service stimulate the installation of additional star service?

Mr. STONE. No; I would not say that.

The CHAIRMAN. Is it the policy of the Second Assistant to look upon the installation of rural service as a more frequent mail service without any reference to a discontinuance of star service, where there is a fair service by the rural service over the same general territory?

Mr. STONE. There is no such policy. On the contrary, the policy is to withdraw the star service wherever it can be done.

The CHAIRMAN. Then why, in view of the exceedingly heavy installation of rural service, is there such a constant increase in the recommendations of the Second Assistant's office for additional sums for the expenditure of money in the star service—does it grow out of additional service or higher rates for the same service?

Mr. STONE. It grows out of two facts: One is the higher rates, which I was about to speak of, as we re-let existing contracts, and the other is the fact that we must continue to extend star service—new star service—into territory that can not be supplied by rural carriers.

The CHAIRMAN. Are there not, Mr. Stone, a great many places throughout the country where there is practically a duplication of star and rural service?

Mr. STONE. I think not.

The CHAIRMAN. Do not both the star carriers and the rural carriers in many instances travel over a part of the same highways for their daily service?

Mr. STONE. For short distances there are cases of that kind.

The CHAIRMAN. What do you mean by "short distances"—how short?

Mr. STONE. I could not tell you that.

The CHAIRMAN. Are there not many cases in which the mileage over which the rural carrier and the star carrier travel on the same day equals approximately 50 per cent of the mileage traveled by either?

Mr. SHALLENBERGER. May I answer that question, Mr. Chairman?

The CHAIRMAN. I am asking the Second Assistant's Bureau; anybody can answer it who is able to.

Mr. SHALLENBERGER. Very well. I would like to say a word from my experience. I have had to deal with certain cases in the last three months as presented by Members of Congress for their constituents. Mr. Stone refers to the fact that our inquiries were sent out only to star routes of 15 miles and less in length, but it happens that a great many routes are more than 15 miles in length, and must necessarily be covered by the star service; and those roads in many cases are used by the rural carrier. We can not prevent it if we would. That is wholly within the jurisdiction of the Fourth Assistant; and if he deems it necessary to have a duplication of service over a star route which we can not discontinue, we can not be responsible for it.

The CHAIRMAN. Then will you be good enough to answer my question—whether it is not a fact that in many cases the mileage of the highways traveled by both the star carrier and the rural carrier equals at least 50 per cent of the mileage traveled by each?

Mr. SHALLENBERGER. That we can not answer unless we make especial inquiry of the Fourth Assistant. We have never gone into the routes beyond 15 miles in length, because we think that under the law star service should connect post-offices at greater distances apart than that.

The CHAIRMAN. Then limit my inquiry to those routes that have been examined by you, namely, those 15 miles in length. Is it not true as to those routes?

Mr. SHALLENBERGER. We have simply inquired whether the entire patronage of such a route can be supplied by rural service. If it can not, but is supplied in part and can not be supplied in whole, then we continue the star route. But without any knowledge as to the proportions of that road that may be covered by the rural service—

The CHAIRMAN. But the question which I asked, and which you desired to answer, is not with any reference whatever to the length of any star service; but it is with reference to what proportion of the same mileage of highways is traveled over each day by both the rural carrier and the star carrier?

Mr. STONE. We have no data on that. I can simply say that we have discontinued the star service wherever we found it possible to do so and continue to supply the people. But a very considerable

part of the increase in the appropriation for star service this current year is the result of reletting our last contract section. That was the fourth section, which includes all the States and Territories west of the Mississippi River except three; and it is the largest section of star service we have.

The CHAIRMAN. What proportion of this proposed increase do you base upon the probable installation of entirely new star service?

Mr. STONE. I could not separate that factor at this time.

The CHAIRMAN. Was that taken into account in making up your estimate?

Mr. STONE. Yes; in submitting the estimate we took the known actual increase. No; we did not separate the two items. We took the net increase for the first two months of the current year, and then assumed that for the remainder of the year there would be this same increase that there was for the corresponding months of the previous year. That is the way we arrived at that. We took into consideration the section that was actually relet, which went into effect on the 1st of July of this year. As I started to say, that section contained 5,535 routes, aggregating 106,067 miles in length; and the increased cost under the new contracts, which went into effect on July 1 of this year, as compared with the old contracts which expired, was \$509,200—an increase of 7.10 per cent; the cost under the new contract per mile traveled being 8.09 cents.

Then we also considered for the next fiscal year the increased cost from reletting the third section, which we are now reletting, and which will be effective on the first of the next fiscal year. That is in the Middle West. It is one of the smaller sections, contains 2,018 routes, and now costs \$791,194, or 6.53 cents per mile traveled. Our estimate is based in part upon the assumption that we can relet that at about 7 cents a mile traveled, which would be an increase of 7.15 per cent in the rate. We have received those bids, and have acted upon part of them. We have decided upon awards on 1,152 routes, averaging 6.89 cents per mile traveled. Some of the others have to be readvertised, but we believe that our original estimate of an average of 7 cents for all will be about right.

The CHAIRMAN. What did you state would be the probable deficiency this fiscal year?

Mr. STONE. About \$255,000.

The CHAIRMAN. What proportion of that presumed deficiency do you calculate upon the establishment of new service?

Mr. STONE. Simply at the same rate of net increase for the remainder of this year that we had for the corresponding period of last year.

The CHAIRMAN. What right have you to incur a deficiency for an entirely new service that has not before been contracted for? What right have you under the law to do that?

Mr. STONE. The general statute directs the Postmaster-General to provide for carrying the mails as often as he, having due regard to productiveness, may think necessary. Those contracts that we make are four-year contracts, and we can not assume that appropriations will not be made year after next, or during the latter part of the contract term, for a sufficient amount to carry out those contracts. New post-offices are being established. We must provide some supply for them.

The CHAIRMAN. How is the payment made for advertising for star-route contracts?

Mr. STONE. The advertisement for our general letting is prepared in a pamphlet form, printed at the Government Printing Office, and is sent out, as provided by law, to every post-office in the State in which the service is to be relet. I want to invite attention—

The CHAIRMAN. Before you do that, what I had reference to is, out of what fund is that payment made?

Mr. STONE. The printing is done by the Government Printing Office. There is no newspaper advertising.

The CHAIRMAN. I mean, out of what fund is it paid for? Does the Printing Office get no pay for it?

Mr. STONE. I understand that Congress makes an appropriation for the printing, and allows to the Government Printer so much for the Post-Office Department and so much for the several departments.

The CHAIRMAN. It is out of no fund carried in your Bureau appropriations?

Mr. STONE. Not at all.

The CHAIRMAN. And not out of the general fund for advertising, which is carried in the Post-Office appropriation bill?

Mr. STONE. No; sir.

The CHAIRMAN. Now, I interrupted you.

Mr. STONE. I was about to invite attention to page 5 of the Second Assistant's last report, suggesting some minor legislation in the matter of advertising for the star service. It begins with the last paragraph on that page. I need not read it all, but the substance of it is this: That the existing law requires us to post that advertisement in every post-office in the State that is to be advertised. We suggest that that is unnecessary, and that if the advertisement is posted in every post-office on the star routes, that will be sufficient, and will do away with a great deal of unnecessary printing.

The CHAIRMAN. The contracts are limited to bidders who reside on the route, anyhow?

Mr. STONE. Yes, sir. Just, as an illustration, in our last advertisement, take the State of Iowa. There are 1,500 post-offices in that State to which, under existing law, we had to send copies of this pamphlet to be posted. There are only 206 of those post-offices which are on star routes. It seemed to us unnecessary to send those pamphlets to about 1,300 post-offices that were not on star service at all.

Mr. STAFFORD. Would you think it would be sufficient if advertisements were limited to a more restricted area—namely, to the office from which the star route departs, or to offices within a certain limited distance from the office of departure?

Mr. STONE. I do not. I think that every office on the route to be let ought to have posted in it a copy of the advertisement. In that way it would be more likely to attract bids from both ends of the route, instead of from one. The report, on page 6, suggests a provision of legislation that would accomplish what we recommend.

Mr. STAFFORD. What construction did the Attorney-General place upon this proviso which limited the service to routes where they were not covered by rural-delivery service?

Mr. STONE. When we first got the law, the question arose as to whether, whenever the same road was traveled by the two carriers (that is, the star and the rural), this law made it obligatory upon us to discontinue the star service. We found that if that view was

taken it would result in a very great hardship upon many towns. There are towns located a few miles back from a railroad, towns of considerable size—I presume some of them are third-class offices—that have more frequent than once-a-day service from the railroads. They are served by a star carrier. He may make two round trips, or three or four round trips, between the town and the railroad to meet various mail trains. If, now, the construction should be that where a rural carrier started from the railroad station on a circuit of twenty-odd miles and happened to pass over that same road for two or three miles as far as that town we must then discontinue the more frequent star service, you can see that that town would then become dependent solely upon once-a-day rural service. That, I say, would have been a very great hardship.

The matter was submitted to the Assistant Attorney-General by the Fourth Assistant Postmaster-General before he would undertake to say whether the postmaster could supply the patronage of that star route entirely by his rural carrier. The Assistant Attorney-General rendered an opinion to the effect that we must consider the people residing at that post-office as part of the patronage of the star route, as well as the people living along the road from the station up to the office; and wherever the rural carrier could not serve the entire patronage—that is, those who got their mail through the office as well as those who got their mail along the line of the road—it then could not be said that the star service must be discontinued over the route.

Mr. STAFFORD. Under the specifications that you submit for this kind of service, do you make any limitation as to the collection and delivery of mail within any distance from post-offices along the line of route?

Mr. STONE. Yes; boxes will not be served within a quarter of a mile of any post-office.

Mr. STAFFORD. What is the rule so far as the rural delivery service is concerned?

Mr. STONE. I am not able to speak for that.

Mr. STAFFORD. Is not the rule within a half mile of any local post-office?

Mr. STONE. I am not sure whether it is a quarter of a mile or half a mile.

Mr. SNAPP. Not within the limits of any municipality, no matter how big it is, or no matter how far.

Mr. STAFFORD. In case there is no municipality, it is within half a mile, if my memory serves me right, of the post-office?

Mr. STONE. I ought to add a further statement to my answer—that we would not serve a box that was within a quarter of a mile of a post-office, or any box within the corporate limits of an incorporated town.

Mr. STAFFORD. So there are, to-day, routes being covered by star-route service that are served by rural mail service?

Mr. STONE. There are, under the circumstances I have recited.

Mr. STAFFORD. And only 70 routes in the entire country, receiving in the aggregate \$17,000, have been discontinued by reason of this proviso?

Mr. STONE. Sixteen thousand dollars, I believe, of the star routes.

Mr. STAFFORD. Can you give the annual rate of expenditure in the four divisions on a stated day during the current year?

Mr. STONE. The latest figures I have are for June 30, 1906.

Mr. STAFFORD. You have no later figures?

Mr. STONE. I have no later figures, but they could be furnished. I can give you the annual rate of expenditure for all the star service on November 30—\$7,447,000 in round figures.

Mr. STAFFORD. I wish to call your attention to the second proviso, concerning the emergency mail service in Alaska. I believe it is the practice of the Department to carry mail in Alaska, by reason of that emergency service, regardless of character, regardless of whether it is letter mail, merchandise, or newspapers and periodicals?

Mr. STONE. In exceptional cases. As far as possible we apply the system of advertising and contracting for Alaskan service the same as for other service; but when it is necessary to get mail, in an emergency, to a new town, or a new camp, or a new post-office, we arrange the matter under that provision of law, without advertising and without contract, for a limited period.

Mr. STAFFORD. Does not that proviso give you authorization for the star-route service, which is the only service during the winter months that reaches a number of towns?

Mr. STONE. It gives us authority if necessary; yes.

Mr. STAFFORD. And you pay for it out of this appropriation?

Mr. STONE. Out of this appropriation.

Mr. STAFFORD. Do you carry all kinds of mail during that time on those routes?

Mr. STONE. We do not. In making contracts for the interior Alaskan points, we find it necessary to make a limitation as to the weight to be carried during the winter season, in order to get any reasonable bids. The towns along the southern coast that can be reached by steamships are served with all classes up to any weight; but the towns on the interior routes are served under contracts with a limitation of varying weights. Perhaps the most important route, that I can speak of, or one of them, is that running up from the southern coast at Valdez over to Fairbanks. The limit of weight on that route is 800 pounds a single trip. Then there is a connecting route with a limit of 600 pounds down to the Yukon River and over to Nome and St. Michaels. In making up that weight limit, the instructions to our people are to give preference to letter mail; and if on any trip there is not enough letter mail to make up that weight, then we send single-addressed newspapers and a few magazines, but no merchandise during the winter season.

Mr. SNAPP. My understanding is that this service was originally established for the purpose of carrying pouch mail from one post-office to one or more other post-offices, and to return to the initial office. Is that correct?

Mr. STONE. That is right.

Mr. SNAPP. But by the new contracts, the contractor is required to deliver mail into boxes along the route and pick up mail from those boxes?

Mr. STONE. That is true.

Mr. SNAPP. Is that service, then, under the new contracts, similar to the rural-route service in that respect?

Mr. STONE. It is similar in that respect; yes.

Mr. SNAPP. Do these carriers travel the same route in returning to the initial office?

Mr. STONE. They do usually; not always.

Mr. SNAPP. Do they pick up and deliver mail on the return trip to the initial office?

Mr. STONE. They do wherever it is necessary. That is, in going out from a railroad point, they would, on their outward trip deliver the mail; on their return trip they would naturally collect the mail going to the railroad. In the meantime they would be carrying the local mail between offices at all points.

Mr. SNAPP. Then they differ from rural routes in this respect, as I understand it. That the rural-route carrier delivers and picks up mail one way only, and these contract carriers, these star-route carriers, pick up and deliver mail both going and coming?

Mr. STONE. That is right.

Mr. SNAPP. On July 1, 1906, what was the average rate paid per mile traveled under new contracts for star-route service?

Mr. STONE. It is given—

Mr. SNAPP. I know it is in the report, but I want it in this record.

Mr. STONE. The report gives it on July 1 only as to those that had been relet in that one section during the last year, which was the western section, a more expensive section than the others. The average rate was 8.09 cents per mile traveled.

Mr. SNAPP. You say that is for only one section?

Mr. STONE. Yes; the section west of the Mississippi River; what we call our fourth contract section.

Mr. SNAPP. Can you give the rate on July 1, 1906, for all sections covered by the new contracts?

Mr. STONE. The new contracts covered just that one section.

Mr. SNAPP. At that rate, what would a contractor receive per day for a trip of 25 miles?

Mr. STONE. I have it in the report for 22 miles. He would receive \$1.78 per day for 22 miles.

Mr. SNAPP. I have a purpose in wanting to have in the record the rate the contractor would receive for 25 miles.

Mr. STONE. (After making calculation.) \$2.02 a day.

Mr. SNAPP. Are you sure that you can not give us the average rate per mile traveled under the new contracts for all sections?

Mr. STONE. As last made, I can give you that.

Mr. SNAPP. Yes; that is what I mean.

Mr. STONE. Oh, yes—as last made. In the third contract section, which is the middle West, the rate is 6.59 cents. Do you want the dates that these went into effect?

Mr. SNAPP. No.

Mr. STONE. In the second contract section, which covers the South, the rate is 5.63 cents. In the first contract section, which is New England and the East, the rate is 6.60 cents. And in the fourth contract section, which is the far West, it is 8.09 cents.

That covers your question.

Mr. SNAPP. Then the average rate per mile traveled under three of these contracts would be much less than 8.09 cents?

Mr. STONE. Yes. The one in the far West is always the highest rate of the four contracts.

Mr. SNAPP. Then in three of these sections, the amount that a contractor would receive for each day would be much less than the amount that you have given us for this last section?

Mr. STONE. Much less.

Mr. SNAPP. Another question. The contractors furnish their own outfits, do they not?

Mr. STONE. They do.

Mr. SNAPP. The Government is at no expense in the carrying and delivering of this mail, except the contract price?

Mr. STONE. That is true.

Mr. FINLEY. One question—I want to ask this in reference to this proviso here: If you should strike out the word “entirely” and insert the word “practically,” what effect would it have in the administration of the law?

Mr. STONE. If you should say “practically” instead of “entirely?”

Mr. FINLEY. Yes, sir.

Mr. STONE. I do not know that I could answer just what effect it would have. I suppose the law would not be quite as strict. It might leave a little more discretion, a little more latitude, possibly.

Mr. FINLEY. And it would possibly result in some saving of duplicate service?

Mr. STONE. Oh, no; I think not. It would not be as strict as this; and we have cut off, under this law, all that we can and still serve the patronage. That is just my personal opinion.

Mr. SHALLENBERGER. Our assumption has been that neither of these services is mandatory, and that a community should be permitted to say which of the two services it preferred. When a decided preference has been expressed for star service by a large majority of the patrons, and confirmed by the Department's officials after an investigation, showing that their interests would be better served by the star service than by the rural service, such cases we have referred to the Fourth Assistant Postmaster-General, with the request that he give careful consideration to these reports and determine whether or not he should reorganize his rural service so as to give to an interior village, perhaps, or town of considerable importance the opportunity to receive a later mail in the day than the rural carrier had been accustomed to take, and also give to that village or town the opportunity of dispatching, the same day, replies to the correspondence, which now is denied by the rural service in many cases.

Mr. STAFFORD. Not so much to discontinue the rural service over that route, as to give them later service or earlier service?

Mr. SHALLENBERGER. Later service, and a dispatch of mails the same day, which a circuitous route does not permit. As has been referred to by Mr. Snapp, of the committee, the rural service is based on the theory that it leaves the railway base early in the morning, makes a circuit of not less than 20 to 25 miles, and returns, dispatching mail it collects on the outward trip.

Mr. STAFFORD. Are there not many star-route service that also leave early in the morning for the dispatch of mails to interior towns?

Mr. SHALLENBERGER. Only those routes that are so long that it requires the entire day to make the round trip. We have star routes, with single carrier, as long as 35 miles.

Mr. STONE. There are some as long as 150.

Mr. SHALLENBERGER. Yes; but I mean routes with single carrier, returning the same day. I think, as I remember now, that there was one route 31 or 32 miles in length, making 50 to 60 miles of travel on the same day by the same carrier, and I probably have reference to a route which I examined yesterday.

The CHAIRMAN. What section of the country is that in?

Mr. SHALLENBERGER. That, I think, is in Virginia, or Tennessee, perhaps. I asked how that was possible. As I remember, the route was from Allens Creek to Clifton, Tennessee. The intermediate point, a large office, was Waynesboro. The entire route, as I remember it, was 30 miles, and Waynesboro was the point where the horses were changed; the same carrier after dinner taking a new team and proceeding to Clifton, and returning, making the trip the same day with a fresh outfit.

Mr. STAFFORD. What is the average length of route in the star-route service?

Mr. STONE. We have not that, but it could be furnished.

Mr. SHALLENBERGER. If you will allow me, Mr. Stafford—

Mr. STAFFORD. Certainly.

Mr. SHALLENBERGER. I will add that that particular route, Waynesboro, was the base of four rural routes, and the necessity is therefore apparent of providing the best possible star service. If any of those four rural routes cover any considerable portion of that star route, it is manifestly impossible for us to discontinue the star route for that reason.

The CHAIRMAN. Are there no railway facilities at Waynesboro?

Mr. SHALLENBERGER. Waynesboro is not within 15 miles of a railroad.

Mr. SNAPP. Who separates for these contract carriers for delivering mail to these boxes along the route, and delivering the mail to different post-offices?

Mr. SHALLENBERGER. Usually the postmaster. In Maine, where I summer, they prefer little canvas bags hanging on hooks. As the carrier passes, he lifts one off and puts another back on the little hook in front of the residence.

The CHAIRMAN. Who furnishes those canvas bags?

Mr. SHALLENBERGER. Each of the patrons furnishes his own. Then the postmaster hangs those little bags on hooks in his office, and all mail coming in during the day is put into the bags for the respective patrons.

Mr. SNAPP. By the postmaster?

Mr. SHALLENBERGER. By the postmaster.

The CHAIRMAN. Are the names of the patrons marked on their respective bags?

Mr. SHALLENBERGER. They are marked in some way. Then the carrier comes in, and collects the bags and throws them in his buggy, and as he travels along, hangs one on and takes another off.

The CHAIRMAN. Are there any instances where there is automobile or motor-power service on star routes?

Mr. SHALLENBERGER. Not to my knowledge.

Mr. STONE. It has been tried in a few cases. We had it across the Island of Porto Rico at one time, but it was not a success, and it was discontinued. We have it now in operation—at least, we had the last I knew of it—on a route up in northern Utah, and on another route down in New Mexico.

Mr. SNAPP. Two carriers in the county in which I live use automobiles all the time.

The CHAIRMAN. Star carriers?

Mr. SNAPP. No; rural carriers.

The CHAIRMAN. I was speaking about star service.

Mr. STONE. You understand that our contracts do not prescribe in any case that they shall use automobiles. The carriers may use any vehicle they wish; and therefore we may not have the information you desire.

Mr. STAFFORD. Is the average star route less than 30 miles?

Mr. STONE. Since you asked the question, I have just taken the first page of this report; and Mr. Crew gives me the exact figures. They are about the same—approximately 13 miles out, and the same distance back; so that he would have to travel 26 miles.

Mr. STAFFORD. That is the average length of route?

Mr. STONE. Thirteen miles each way; yes.

Mr. STAFFORD. Can you give the committee, as you did last year, the annual rate of expenditure in these various divisions on January 1, the information for last year having been furnished on January 31 of the current year?

Mr. STONE. We can give it to you. I have not the data with me.

Mr. STAFFORD. Can you give it without any great trouble?

Mr. STONE. Oh, yes; without any trouble at all.

Mr. STAFFORD. I would like to have it furnished, if you please.

Mr. FINLEY. General, is it not a fact that the public demands that this service on star routes more and more be made daily—that is, six days a week?

Mr. SHALLENBERGER. That is true. Routes now having semiweekly service and triweekly service are growing more important. The population is increasing in the interior; industries are building up, and we have constant applications for an increased frequency, which necessarily adds to the cost of our service.

The CHAIRMAN. How many deliveries per day are made in the star-route service?

Mr. STONE. That varies under different contracts. There is no information as to what the average might be, if there can be said to be an average. Some routes are only once a week; others are twice a week; others are six times a week.

The CHAIRMAN. My query was per day. What I mean is, are there any instances where the service is more frequent than once a day?

Mr. STONE. Oh, yes; a good many.

The CHAIRMAN. What are the most frequent services?

Mr. STONE. I could not say the most frequent, but it would not be infrequent, I think, to find a service of four times a day in some of the New England towns that are just a little off from the railroad, and where it is necessary to meet frequent trains.

The CHAIRMAN. Has the increase in the amount of expenditure for this service depended in any degree upon the increase of the frequency of the delivery service?

Mr. STONE. There has always been a tendency to increase the frequency as the communities grow, but I do not know that the rate of increase for the present year or last year is any greater than for several years past in that respect.

Mr. SNAPP. Suppose you had a contract that provided for two deliveries a day, and the Department should see fit to increase the deliveries to three or four; would the compensation be increased also?

Mr. STONE. There is a provision under each contract that the Postmaster-General may increase the service, and allow not to exceed a pro rata increase on the contract rate.

The CHAIRMAN. Then where the contract was made for one service a day, if you should increase it to two services a day, you would simply double the contract?

Mr. STONE. If we thought that was a reasonable price. If not, we could do one of two things: We could either ask the contractor and his sureties to consent to take something less than the full pro rata, or we could open it to competition.

The CHAIRMAN. Supposing, in the first instance, the lowest bid for the service should seem to you to be an unreasonable price; do you refuse it?

Mr. STONE. Oh, yes; we do that frequently.

The CHAIRMAN. Are there many instances where you deny the service entirely because you do not get what you determine to be reasonable bids?

Mr. STONE. Well, we would readvertise several times, and if we could not get anything for the frequency that we wanted, we would probably advertise again for a reduced frequency.

The CHAIRMAN. In the item of appropriation for inland transportation by steamboat service you estimate an increase of \$29,000, or 3.62 per cent. Is that increase due to a probable increase of additional service of that character, or for higher rates upon existing service?

Mr. STONE. Both. The increased cost in reletting the section last year—the fourth section, the same one we have been speaking of—was \$44,000, or 11 per cent. That was effective July 1, 1906; and it was about \$14,000 more than we had estimated for that particular item.

During the current year we shall relet service in the third class, in the Middle West, for which we have allowed an increase of 12 per cent, or \$2,100, over the existing contract rates. The amount of service in that section, however, is very small. The increase that we ask for next year is less than the increase in expenditure last year over the preceding year, and is about the average increase for several years past. I may mention that there will probably be a deficiency for the current year of about \$20,000.

MAIL MESSENGER SERVICE.

The CHAIRMAN. In the item for mail and messenger service, the increase asked is 3.33 per cent. Is that based upon similar conditions?

Mr. STONE. This is practically the same increase that we expect during the current year, and is less than the increase in the expenditure for any year for several years past.

PNEUMATIC TUBE SERVICE.

The CHAIRMAN. In the item of transmission of mail by pneumatic tubes, you ask the maximum allowance by law. Does that contemplate the completion of all contracts within the year?

Mr. STONE. It is made on that assumption—that all the contracts for all the cities authorized by the last appropriation act would be in effect throughout the next fiscal year.

The CHAIRMAN. Have expenditures been made or authorized in all of the cities which the last year's law authorized?

Mr. STONE. Not all. Contracts have been awarded for service in Boston, New York, Brooklyn, Philadelphia, Chicago, and St. Louis, aggregating \$1,067,411.09, leaving \$182,588.91 of the amount author-

ized as available by law—that is, \$1,250,000—for the establishment of service in the other cities named in the appropriation act, viz: Baltimore, Cincinnati, Kansas City, Pittsburg, and San Francisco, to the extent of the mileage contemplated by the original recommendation, and at the maximum rate stated in the law, \$17,000 a mile. The Second Assistant's report, at pages 9 to 12, gives a full statement in regard to the action under the last law.

The CHAIRMAN. Were any contracts authorized for either of those cities just named, viz, Baltimore, Cincinnati, Kansas City, Pittsburg, or San Francisco?

Mr. STONE. They were not. There was no bid received under the Department's advertisement for service in those cities.

The CHAIRMAN. What is the present status, therefore, of that authority? You mentioned that you had had sufficient money available, and have recommended the further appropriation of money sufficient for those contracts; but are there advertisements now pending, or anything of that sort?

Mr. STONE. There is nothing pending; not since the recent——

The CHAIRMAN. What efforts, if any, were made for contracts in those cities?

Mr. STONE. The advertisement which was issued inviting proposals for those cities was sent to the postmasters there, and I think was brought by correspondence to the attention of people interested in those cities, but no bid was received.

The CHAIRMAN. What information, if any, has the bureau relative to the failure of bids in those cities? Are there any reasons which came to the Department and which the Department is in a position now to state?

Mr. SHALLENBERGER. No reason, except that in the several cities, as I was advised by the newspaper reporters representing the daily press of the cities, there was no local company willing to undertake the risk of installing the service; nor did either of the large companies of the East make a proposal or attempt to organize a local company, as they would have had to do.

Mr. SNAPP. Have you any information as to whether they would be willing to bid upon such a contract at an increased price?

Mr. SHALLENBERGER. I have not. I have said, in reply to a question of that kind which came to me, that I should not feel justified in recommending to the Postmaster-General that an increased price should be recommended to Congress, as the distances were not great enough to justify, in my judgment, a larger appropriation per mile. In fact, our investigation, which was pursued with great care in the cities of Buffalo and Cleveland, resulted in a report adverse to the installation of any service in those cities.

The CHAIRMAN. What is the status with reference to the full authorization of mileage of this service with respect to other cities where the service is now in operation?

Mr. SHALLENBERGER. In each of the cities of Chicago, Philadelphia, and Greater New York (including the borough of Brooklyn), one station was omitted from the service, as advertised, in order that we might retain from the aggregate authorization a sufficient amount to cover the cities from which no bids had at that time been received. That was done on the theory that if we should, at the increased price for which the proposals were submitted in one or two of the cities, allot the full length required, it would consume the entire authoriza-

tion, \$1,250,000, or substantially that, and we did not wish to have that done.

Mr. SNAPP. I notice from your report that the mileage under contract in Chicago is something more than two miles, a little less than that contemplated. I wish you would explain why the contract does not include the full number of miles. I do not understand it.

Mr. SHALLENBERGER. I have tried to explain that. In our recommendations of last year we took note of the service under contract, which included service in Chicago at considerably below the \$17,000 per mile—

Mr. SNAPP. But my recollection is that the estimated appropriation was at the rate of \$17,000 per mile.

Mr. SHALLENBERGER (continuing). And that all additional service should be authorized at rates not exceeding \$17,000 per mile, which is the maximum under the law. We of course could not assume that we should not be able to get proposals for then existing service at less than \$17,000 per mile.

The CHAIRMAN. Let me ask you this question, then, General: Supposing this \$1,250,000 now recommended by your Bureau should be appropriated, would that be sufficient to pay all existing contracts, including the installation of the additional service at the cities of New York, Chicago, and such other cities as were named, and still be sufficient to install the service as originally recommended by you in the cities of Baltimore, Cincinnati, Kansas City, Pittsburg, and San Francisco?

Mr. SHALLENBERGER. No; it would not.

The CHAIRMAN. What amount would be necessary, at the maximum rate of \$17,000 per mile authorized by the law, to install all of the service recommended by your Bureau last year?

Mr. SHALLENBERGER. We can estimate that very quickly, Mr. Chairman; but I do not have it here. That will take in the extra 2 miles at Chicago and all the stations in all cities.

The CHAIRMAN. What I mean is this: My recollection is (I may be in error) that at the time you made the recommendation last year, which the committee ratified and authorized, it contemplated a given number of miles specified for increased service in the cities of New York, Chicago, and one or two other cities where the service was then in operation, and then a limited mileage in five additional cities.

Mr. SHALLENBERGER. That is true.

The CHAIRMAN. What I ask is, what would be the amount necessary for all of that service at the rate of \$17,000 a mile?

Mr. SHALLENBERGER. That, as I have said, we can easily ascertain. Mr. Crew will get it for you.

The CHAIRMAN. It would be in excess of \$1,250,000?

Mr. SHALLENBERGER. It would.

The CHAIRMAN. Then, in order to be consistent, and to harmonize with your recommendations for the service, in view of the bids which have been made, would you regard it as advisable to increase the total from \$1,250,000 to what that total would be at that calculation?

Mr. SHALLENBERGER. I would if I had any expectation of receiving bids from the other cities.

The CHAIRMAN. But is it your purpose to continue to deny the extension in the cities where the service is now in operation under the last bids?

Mr. SHALLENBERGER. It is not.

The CHAIRMAN. Is it your purpose to complete those contracts?

Mr. SHALLENBERGER. It would be if Congress, having received the report we have made, should increase the authorization or release us from what we regard as the moral obligation to hold back that 182—

The CHAIRMAN. What I say is, supposing that all that Congress does is merely to appropriate \$1,250,000, leaving the law as it stands now.

Mr. SHALLENBERGER. Yes.

The CHAIRMAN. Would that be regarded by your Bureau as justifying and authorizing you to complete the full mileage originally recommended for the cities of Chicago and New York?

Mr. SHALLENBERGER. I should be unwilling to construe the law in that way, and think Congress should specifically release us from the recommendation of last year for these other cities from which no bids come.

The CHAIRMAN. Then, if Congress should appropriate an amount of money calculated upon the basis of \$17,000 per mile for the total mileage recommended by you last year, you would then regard that as authority and justification for you to complete the contracts in the cities of Chicago and New York and the other cities where the service is in operation, even though you received no additional bids in the cities of Baltimore, Cincinnati, Kansas City, Pittsburg, and San Francisco?

Mr. SHALLENBERGER. We certainly should, if the law should be clear enough to make that the intent of Congress. What I mean is—

The CHAIRMAN. As a matter of fact, General Shallenberger, is it not quite probable that Congress understood, when it made the appropriation for \$1,250,000, based upon your recommendation of mileage in the current appropriation law, that that was an amount sufficient to carry out those contracts in the cities named in the law?

Mr. SHALLENBERGER. It was based on the conclusion that that would be a sufficient amount if we could secure the old service at not exceeding the rate then existing, and, in addition, the new service at the rate of \$17,000 per mile. But, as I have said, while the Department could not anticipate that we should be unable to renew the service at the same rate then reported, as a matter of fact we were unable to renew those contracts, or receive proposals for the entire service at any less rate than \$17,000 for both old and new service. Now, that increase was a larger aggregate than we had contemplated when we recommended specifically that certain stations in certain cities involving a certain aggregate mileage should be authorized by Congress.

The CHAIRMAN. But you come to Congress and recommend a specific mileage of increased service for certain specified cities where the service is now in operation?

Mr. SHALLENBERGER. Yes.

The CHAIRMAN. And in addition thereto you recommend the installation of the service in certain other cities where the service is not now in operation?

Mr. SHALLENBERGER. Yes.

The CHAIRMAN. And in connection with that specific recommendation you name the sum of \$1,250,000?

Mr. SHALLENBERGER. And advise Congress as to how it is made up. The CHAIRMAN. Exactly.

Mr. SHALLENBERGER. The old service at such rate, and so on.

The CHAIRMAN. Now, when Congress appropriated the \$1,250,000, and authorized the installation of the service in these cities, naming the cities which your recommendation had named, you now feel that you should not complete those contracts, according to your present explanation, if I understand you, unless Congress specifically directs you to make those contracts. Is that consistent?

Mr. SHALLENBERGER. I should think it was consistent at least to this extent: We having made a very careful investigation under the law, and having specifically reported to the Postmaster-General, and he to Congress, as to the stations which we desired to connect with pneumatic-tube service in the various cities, and the mileage involved, and having stated that the aggregate sum covered by the existing mileage was a certain amount, and having asked Congress to add to that new service at the cost of \$17,000 per mile, we should not feel justified in contracting for full new and old service which we had reported to Congress as of a given mileage unless Congress should increase the authorization beyond \$1,250,000, in which event the appropriation need not be even \$1,250,000, in the present bill, as full service could not be completed within the year in cities from which proposals must yet come and in the cities of Boston, Philadelphia, New York, Brooklyn, Chicago, and St. Louis, as well.

The CHAIRMAN. Do you believe, in view of the information which you now have, that it is possible to secure a lower rate of rental for this service in the cities of St. Louis, Chicago, Philadelphia, New York, and Boston than the maximum of \$17,000 a mile?

Mr. SHALLENBERGER. I do not believe it possible.

The CHAIRMAN. Do you believe it possible to secure any lower rate in the cities of Baltimore, Cincinnati, Kansas City, Pittsburg, and San Francisco than \$17,000 per mile?

Mr. SHALLENBERGER. I think it is still less possible in those cities.

The CHAIRMAN. Then would you recommend that Congress increase the amount of the appropriation, so as to make it equal to the rate of \$17,000 a mile for the full mileage which you have already recommended?

Mr. SHALLENBERGER. That I would recommend as above stated.

The CHAIRMAN. What is that mileage? What is that amount?

Mr. CREW. \$1,281,443, at \$17,000 per mile for the full mileage recommended. That is merely at \$17,000 per mile. Now, on the short mileage you will find that that will not be exactly right at \$17,000 per mile.

The CHAIRMAN. But I understand General Shallenberger to say that he declines to recommend a higher rate than \$17,000 a mile for any of the service. Am I correct in that, or would you?

Mr. SHALLENBERGER. I should not feel—

The CHAIRMAN. You would not feel disposed to recommend a higher rate than \$17,000 a mile even for a shorter mileage than 1 mile in any one city?

Mr. SHALLENBERGER. I should hesitate to recommend any pneumatic-tube service under 1 mile.

The CHAIRMAN. I do not mean that; I meant 3 miles. That is what I meant to say.

Mr. SHALLENBERGER. Yes; I hesitate to recommend more for less

than 3 miles, for the reason that the cost of the terminal machinery must be paid for by the mileage; and when we are asked to connect stations less than 3 miles apart, with no expectancy that the service will increase in the city within a reasonable period, it seems to me that we had better cover that distance by automobiles or some other method of rapid transit.

The CHAIRMAN. Do I understand you to say that an increase of \$31,443 over the \$1,250,000, making \$1,281,443, would make a sum sufficient to allot \$17,000 a mile for all of the mileage which was recommended by you last year?

Mr. CREW. That covers the mileage given in our table on page 38 of the report of 1905, showing the new service and the service then in operation. The two together make 75.379 miles. That, multiplied by \$17,000, if I have made no mistake, makes \$1,280,000.

The CHAIRMAN. Let me put the question in another way.

Mr. GOEBEL. You do not include the five new cities, though?

Mr. CREW. Yes; I do.

The CHAIRMAN. In the \$1,281,000?

Mr. GOEBEL. No; that does not include the five new cities.

Mr. CREW. Your \$1,250,000 includes an increase in San Francisco. Our recommendation was \$1,233,000, you will remember.

The CHAIRMAN. Let me put it in this way: What amount would be necessary, at the rate of \$17,000 a mile, for the full mileage advertised for in the cities of Boston, New York, Philadelphia, Chicago, St. Louis, Baltimore, Cincinnati, Kansas City, Pittsburg, and San Francisco?

Mr. FINLEY. You omitted Brooklyn.

The CHAIRMAN. That is included in Greater New York. What amount would be necessary at the \$17,000 a mile to cover the mileage advertised for in your invitation for bids?

Mr. CREW. What I have given you.

Mr. SHALLENBERGER. I think Mr. Crew has given you the correct figures; and I want to explain that there was \$17,000 additional added in the Senate for San Francisco, which he has not included here.

Mr. CREW. If you want to cover that, you want to add \$17,000 in addition.

Mr. SHALLENBERGER. Yes; you want to add \$17,000 if you want to cover that.

The CHAIRMAN. That, then, would be an increase of \$48,443 which it would be necessary to make in the total?

Mr. SNAPP. I think there is a mistake there.

(After an informal discussion:)

The CHAIRMAN. What amount of money would be necessary to pay for all of the pneumatic service for the next fiscal year for the service actually in operation, plus the installation of the full mileage recommended last year, and which you advertised to secure, including the additional one mile at San Francisco contemplated by the increase of the amount after your recommendation?

Mr. CREW (after making calculation). \$1,388,758.90.

Mr. GOEBEL. General Shallenberger, you did, during the summer, advertise for bids at the Cincinnati office?

Mr. SHALLENBERGER. We did.

Mr. GOEBEL. You received no bids, I believe?

Mr. SHALLENBERGER. No bids.

Mr. GOEBEL. Have you advertised since that time?

Mr. SHALLENBERGER. No; we have not. I said to the correspondents representing the daily press of Cincinnati immediately after the bids were opened, and the failure to receive any from Cincinnati was discussed, in reply to that question I said, "Our rule is not to involve the Department in cost of new advertisement, having just failed to secure bids, until we have some intimation that someone is ready to put a proposal before us. Otherwise it would seem to be a needless increase of expenditures." I said to the press of Pittsburg: "If you can induce the Board of Trade or the Chamber of Commerce or any public-spirited citizen to organize a local company and say to us that if an advertisement issues they will find someone to submit a bid, we will at once issue an advertisement."

Mr. GOEBEL. Then you do not contemplate advertising until you get such information?

Mr. SHALLENBERGER. Not until we get some such information.

Mr. GOEBEL. An appropriation had been made for pneumatic tubes for the fiscal year of 1906?

Mr. SHALLENBERGER. Yes.

Mr. GOEBEL. I am asking simply for information as to that. No disposition having been made of that appropriation, does that revert back to the Treasury?

Mr. SHALLENBERGER. It was simply authority to execute contracts to the aggregate of \$1,250,000. There has been no appropriation of that amount made.

The CHAIRMAN. There was an appropriation of \$900,000.

Mr. SHALLENBERGER. Nine hundred thousand dollars; yes. If you will remember, however, that was on the supposition that even though bids should be received from all, and even though contracts should be executed with all, they could not be completed within the fiscal year to an extent that would require more than the expenditure of \$900,000.

Mr. SNAPP. How much of this \$900,000 will be used during this year?

Mr. SHALLENBERGER. That depends on the rapidity with which the service will be completed and installed.

Mr. SNAPP. How much of the new service has been completed?

Mr. SHALLENBERGER. The contracts have just been executed.

Mr. SNAPP. When were they executed?

Mr. SHALLENBERGER. I think in the last of November. The tubes are being laid in New York, I understand.

Mr. SNAPP. Are they all under construction?

Mr. SHALLENBERGER. I am not prepared to say. In Philadelphia and New York I think they are proceeding with the new construction. As to Chicago, I am not able to say. Do you know, Mr. Crew?

Mr. CREW. I do not know of any construction being pursued in Chicago. In New York and Philadelphia they are at work, I understand.

Mr. STAFFORD. You have entered into new contracts for this service in Boston, Philadelphia, New York, Chicago, and St. Louis. For what length of time do those contracts run?

Mr. SHALLENBERGER. Ten years.

Mr. STAFFORD. Is there any condition in those contracts that the service as a whole must be in operation within any specified time?

Mr. STONE. There are provisions on that subject. I can not recall the exact language. They provide that a certain per cent of the serv-

ice shall be in operation within the first year and a certain per cent in the second year.

Mr. CREW. Three miles in the first year, and 6 miles in the second, and the balance within the third year.

Mr. STAFFORD. Is there any penalty attached for failure to perform the contract?

Mr. SHALLENBERGER. There is not.

Mr. STAFFORD. How do you expect to have the contract carried out without a penalty provision?

Mr. SHALLENBERGER. If we were dependent upon that contract for service we should certainly have a penalty; but as it is improved service, proposing to substitute the pneumatic for the wagon and other service, we have not felt justified in exacting a penalty for failure to complete it within a specified time, as no loss to the Government can well occur by delay, and no possible expenditure can be made until after the completion of the line and the acceptance by the Postmaster-General.

Mr. STAFFORD. You have entered into a contract for the city of Boston for the maximum mileage recommended by the Commission of last year, for the period of ten years hence, for a maximum rate of \$113,089.14 per annum?

Mr. SHALLENBERGER. That is correct, as you will find.

Mr. STAFFORD. That contract is now binding on both parties, the Government and the company?

Mr. SHALLENBERGER. It is a contract between the Government and the company.

Mr. STAFFORD. At what aggregate price would that be, in case they received the maximum compensation allowed by law?

Mr. SHALLENBERGER. They are now receiving the maximum. That contract calls for the maximum.

Mr. STAFFORD. If you will multiply 6.89 by \$17,000, I think the result will aggregate \$117,130 per annum.

Mr. SHALLENBERGER. They consented finally, I am reminded, to a reduction in Boston on account of the fact that a part of the service was performed in a 10-inch tube.

Mr. STAFFORD. In this city this service had for a prior time been in force?

Mr. SHALLENBERGER. It had.

Mr. STAFFORD. Under one former contract?

Mr. SHALLENBERGER. It had.

Mr. STAFFORD. For what length of period was it installed?

Mr. SHALLENBERGER. A four-year contract.

Mr. STAFFORD. At the rate of \$16,000 per mile?

Mr. SHALLENBERGER. I presume so. I do not remember the figures, but they are in the record. What are they, Mr. Crew?

Mr. CREW. Do you mean the Boston contract?

Mr. STAFFORD. Yes.

Mr. CREW. The Boston service before this was \$16,000 per mile.

Mr. STAFFORD. That was the maximum service recommended by the Commission: and it is now in operation?

Mr. CREW. Yes, sir. You will find that on page 11 of the Second Assistant's report for 1905.

Mr. STAFFORD. No additional appropriation is necessary, so far as Boston is concerned, to extend the service there?

Mr. SHALLENBERGER. There is not.

Mr. CREW. There is none recommended.

Mr. STAFFORD. State the length of service for which the contract provides as to the operation of this pneumatic tube in Brooklyn, N. Y., under the new contract, as just entered into.

Mr. CREW. In Brooklyn it now extends from New York to the Brooklyn post-office, under the New York contract, you understand; and in Brooklyn proper we extend up to Station L, 1.35 miles outside of that.

Mr. STAFFORD. Will you state the total mileage which is provided for in the new contract for service?

Mr. CREW. 1.35 miles in Brooklyn proper, separate from the connection of the Brooklyn post-office with the New York post-office.

Mr. STAFFORD. How much in New York?

Mr. CREW. The New York contract alone is for 26.89 miles.

Mr. STAFFORD. And the Brooklyn contract is for 1.35 miles?

Mr. CREW. 1.35 miles.

Mr. STAFFORD. How much less is that mileage than that recommended by the board a year ago?

Mr. CREW. I will have to get those figures. (After making calculation.) The recommendation in New York and Brooklyn was for 29.403 miles. The service as let is for 28.24—a difference of 1.163 miles.

Mr. STAFFORD. The contract let in Brooklyn is for 4.6016 miles?

Mr. CREW. Not let; 1.35 miles as let. That is the advertised service. We did not let the service at Station W.

Mr. STAFFORD. For what reason did you not let service at Station W?

Mr. CREW. We did not have money enough to cover it and save the money for the other cities.

The CHAIRMAN. That was explained by General Shallenberger in reference to certain stations that were omitted from the contract.

Mr. CREW. This was one instance.

Mr. STAFFORD. Yes, sir. I would like to have him explain the reasons in each case.

Mr. CREW. As explained by Mr. Shallenberger.

The CHAIRMAN. He had stated the reasons; but you wish to ask the question as to each specific one?

Mr. STAFFORD. Each specific case.

The CHAIRMAN. It is the same reason. I simply thought it was a duplication; but, if you insist upon it, go ahead.

Mr. STAFFORD. I want to get it in the record.

The CHAIRMAN. He has got it in the record—his explanation as to these several stations.

Mr. STAFFORD. Was there any bid received for the proposed service of 4.60 miles?

Mr. SHALLENBERGER. The proposals included that station.

Mr. STAFFORD. But was any bid received for the installation of that service?

Mr. SHALLENBERGER. A bid is a proposal, Mr. Stafford.

Mr. CREW. Yes, sir; it is stated on page 11 of our report.

Mr. STAFFORD. Under your report of a year ago you recommended for installation, as new service, 3.94 miles in Brooklyn?

Mr. CREW. Yes, sir.

Mr. STAFFORD. Was there any additional mileage added to make up the 4.60 miles, as proposed in your last proposal?

Mr. CREW. The company measured by a very much longer route in reaching Station W than we had estimated, and longer than we thought was practicable.

Mr. SHALLENBERGER. They assigned as a reason that they could not occupy certain streets as contemplated, and for other reasons could not make the connection between the stations by the shorter route.

Mr. STAFFORD. Making the route more than half a mile longer?

Mr. CREW. Yes, sir.

Mr. STAFFORD. At what rate per mile is that contract in Brooklyn

Mr. CREW. \$17,000 per mile.

Mr. STAFFORD. In New York you have a contract for only 26.8½ miles, as distinguished from the proposal of 27.5377 miles?

Mr. CREW. That is correct.

Mr. STAFFORD. Did you receive any proposal for the installation of the total service there?

Mr. CREW. We received a proposal for 27.5377 miles.

Mr. STAFFORD. Under the contract as now let for the 26.89 miles, it is at the rate of the full compensation of \$17,000 per mile?

Mr. CREW. \$17,000 per mile.

Mr. STAFFORD. How much of the service in Brooklyn and New York is now in operation?

Mr. CREW. The original service from the post-office to Station H, covering the intermediate stations, and also the service from the New York post-office to Station P, and the service from the New York post-office to the Brooklyn post-office.

Mr. STAFFORD. What additional service is there than that which was in service a year ago, when you stated the service in operation in New York as being 6.853 miles?

Mr. CREW. I do not think that there is any, except that we have changed the locations of some of the stations and have had to change the mileage proportionately.

Mr. STAFFORD. Is there any in course of construction?

Mr. CREW. It is in course of construction now.

Mr. STAFFORD. How much is in course of construction?

Mr. CREW. I could not give you a definite answer, but I know that they have broken ground at many places, and are building up on the west side so as to complete the west side line, they claim, before the 1st of next July.

The CHAIRMAN. How much is under contract?

Mr. STAFFORD. We have in the report how much is under contract—26.89 miles under contract, I believe.

Mr. CREW. Yes, sir.

Mr. STAFFORD. The contract for Philadelphia covers 7.35 miles, at an aggregate pay of \$124,950 per annum, which is the maximum amount?

Mr. CREW. Seventeen thousand dollars per mile.

Mr. STAFFORD. Where is the additional service needed there which is not covered by the present contract?

Mr. CREW. From Southwark to Station D. That was eliminated from the contract.

Mr. STAFFORD. What was the occasion for extending the total mileage from that proposed in the report of last year?

Mr. CREW. Is that in Philadelphia?

Mr. STAFFORD. In Philadelphia.

Mr. CREW. The extension recommended was the service to Southwark and Station D from the post-office.

Mr. STAFFORD. So it is an additional recommendation, so far as the service that is now provided in the present contract is concerned?

Mr. CREW. Yes, sir.

Mr. STAFFORD. It is additional to that reported last year?

Mr. CREW. Yes, sir.

Mr. STAFFORD. So that you did enter into a contract, and had the appropriation for that which was intended last year?

Mr. CREW. Yes, sir; all except Station D.

Mr. STAFFORD. The present contract in Chicago, which runs for ten years—and I infer that these contracts have all just been executed and entered into; is that a fact, Mr. Shallenberger?

Mr. SHALLENBERGER. That is a fact.

Mr. STAFFORD (continuing). Provides for a service of 17,563 miles?

Mr. CREW. Approximately.

Mr. STAFFORD. At what rate is that per mile?

Mr. CREW. Figuring out that mileage and the total rate of pay on the contract, as given on page 11 of our report, it makes \$16,766.53.

Mr. STAFFORD. When you made your report last year there were 8.88 miles in operation in Chicago?

Mr. CREW. Yes, sir.

Mr. STAFFORD. And you recommended 8.814?

Mr. CREW. Yes, sir.

Mr. STAFFORD. Or 17,694 miles?

Mr. CREW. Yes, sir.

Mr. STAFFORD. Where was the extension, and the reason for its extension to make a total of 19,953 miles?

Mr. CREW. The company, in making this proposal, measured by longer routes than we anticipated.

Mr. STAFFORD. What was the reason for measuring on longer routes?

Mr. CREW. They gave various reasons for it. One was that they could not get under the river where they expected to. Another was that they could not make connection properly at a station that we had anticipated in the estimate.

Mr. STAFFORD. What station was that?

Mr. CREW. In making the connection?

Mr. STAFFORD. Yes.

Mr. CREW. We wanted Carpenter street, as I recall it, supplied from the Northwestern. They said they could not supply it from there, because they could not get across the river; and they undertook to supply it from Station U. The contract now provides for Carpenter street station being supplied from Station C. There was a considerable change in the lines—in the locations.

Mr. STAFFORD. Has any new contract been entered into for the extended service or the old service in St. Louis?

Mr. CREW. Yes; we have a contract in St. Louis.

Mr. STAFFORD. For what length of mileage has it been entered into?

Mr. CREW. The same length—3.47 miles.

Mr. STAFFORD. Is that the total recommended by the board?

Mr. CREW. Yes, sir.

Mr. STAFFORD. At what total rate, per annum, and what rate per mile, is that service now being had by the Government?

Mr. CREW. Taking the total amount of the bid as \$54,821.15, and dividing it into that mileage, gives us a rate per mile of \$15,789.60.

Mr. STAFFORD. And there is no need for the extension of the service in St. Louis, then, as at present contracted for?

Mr. CREW. At present we could not recommend that.

Mr. STAFFORD. In making call for new bids for the additional service than that now contracted for, if the contracts were canceled, you would expect that the contractors would return a proposal of the maximum amount of \$17,000 per mile for service?

Mr. CREW. I have no knowledge of their intention of bidding any lower.

Mr. STAFFORD. In Chicago, this service under the old contract was at what rate per mile?

Mr. CREW. Page 12 of the report for 1905 gives the rate per mile as \$13,471.28.

Mr. STAFFORD. What was the rate in St. Louis under the old contract?

Mr. CREW. Fifteen thousand five hundred and seventy dollars.

Mr. STAFFORD. In Boston?

Mr. CREW. Sixteen thousand dollars a mile.

Mr. STAFFORD. In New York?

Mr. CREW. Sixteen thousand seven hundred and ninety-nine dollars per mile.

Mr. STAFFORD. In Philadelphia?

Mr. CREW. Seventeen thousand dollars per mile.

Mr. STAFFORD. For what length of time did those contracts run?

Mr. CREW. Four years.

Mr. STAFFORD. Was that the first contract that was executed for that service in each of these cases?

Mr. CREW. I think not in each of these cases.

Mr. SHALLENBERGER. Not in Philadelphia; the service has been in Philadelphia since 1890 or 1891, during Mr. Wanamaker's administration; I think it was 1891.

Mr. CREW. Philadelphia, New York, and Boston had service prior to that time.

Mr. STAFFORD. But in the other cities it was the first contract?

Mr. CREW. I believe so; yes.

(The committee thereupon adjourned until to-morrow, Saturday, January 12, 1907, at 10.30 o'clock a. m.)

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
Saturday, January 12, 1907.

Committee called to order at 10.40 a. m.

STATEMENT OF HON. W. S. SHALLENBERGER, SECOND ASSISTANT POSTMASTER-GENERAL, ACCOMPANIED BY MR. GEORGE F. STONE, CHIEF CLERK; MR. JAMES H. CREW, SUPERINTENDENT OF RAILWAY MAIL ADJUSTMENT, AND MR. ALEXANDER GRANT, ACTING GENERAL SUPERINTENDENT RAILWAY MAIL SERVICE.

SCREEN WAGON AND CHICAGO TUNNEL SERVICE.

The CHAIRMAN (Mr. Overstreet). Mr. Shallenberger, the first item for consideration to-day is your recommendation relative to screen-wagon service, page 24 of the skeleton bill. Is the increase of \$19,000 recommended due entirely to the establishment of new service, or partly because of probable increase of rates incident to new contracts?

Mr. STONE. Since this estimate was prepared conditions have materially changed. We have opened bids for the third contract section, which must be relet to take effect on July 1 next. The lowest bids aggregate about \$61,000 more than was allowed in our estimates; and while some of the bids have been rejected and service readvertised, we believe there should be added to this estimate at least \$50,000, which will make the revised estimate \$1,296,000, being \$69,000, or 5.62 per cent, more than the appropriation for the current year.

The CHAIRMAN. Then you will ask an increase of \$69,000 instead of \$19,000?

Mr. STONE. Yes, sir.

The CHAIRMAN. Is that due to the proposed contracts where none have heretofore existed, or entirely with reference to the old contracts which have expired and new ones have to be made for similar service?

Mr. STONE. It covers both items; the increased rates on those that have expired and will be relet. And it also includes some additional service.

The CHAIRMAN. What is your total recommendation?

Mr. STONE. \$1,296,000.

The CHAIRMAN. What is the condition of this fund for the current year?

Mr. STONE. The annual rate of expenditure on November 30, 1906, was \$1,183,170.

Mr. STAFFORD. Do you expect any deficiency in this item this year, or will the appropriation be sufficient to meet all the needs of the service?

Mr. STONE. We do not expect to have any deficiency this year unless there should be a failure in the performance of service for the Chicago tunnel, which would necessitate employing additional regulation wagon service.

Mr. SHALLENBERGER. And unless the committee would make the amount for tunnel service applicable for wagon service.

Mr. STAFFORD. The tunnel service is now in operation, is it not?

Mr. SHALLENBERGER. It is in experimental operation, but not satisfactory operation.

Mr. STONE. And has not been accepted under the contract.

Mr. STAFFORD. Are you realizing any difficulties in its operation in Chicago?

Mr. SHALLENBERGER. We are realizing such great difficulties that we have not been able as yet to secure even an experimental test in full compliance with the contract. Certain portions have to be performed by wagon service at the expense of the tunnel company.

Mr. STAFFORD. What is the difficulty that has been encountered?

Mr. SHALLENBERGER. The delays to mail matter.

Mr. STAFFORD. It was suggested when this authorization was made that it would be more expeditious.

Mr. SHALLENBERGER. That was the understanding.

Mr. STAFFORD. Have you found upon trial that that claim has been met?

Mr. SHALLENBERGER. That claim has not been met. On the contrary, the expedition has not been reached. The average time consumed under the most favorable circumstances equals the time consumed by the wagon schedule. Again, the number of failures to connect with outgoing trains, the delays in reaching the post-office from railway stations, have caused very many complaints to come from not only the people of Chicago, where local mail is affected, but from the people of the West and Northwest, whose mail matter fails to make connection with outgoing trains by reason of the unavoidable delays apparently incident to the method of handling the mail from the general post-office down through chutes to a 40-foot level below the surface, conveying it in cars, and lifting it again from that depth to the railway station.

Improved methods by the tunnel company have been substituted, and are still being considered and substituted. They seem to be making every reasonable effort to bring the service up to a condition in which we can certify it subject to deduction for failures to comply with the contract stipulations. But the most recent reports, and those reports are made after the most careful investigation by the postmaster of the city of Chicago, by the Superintendent of Railway Mail Service, my own direct representative in the city of Chicago, and by special agents sent from my office to assist and verify the investigation—these reports, taken together, indicate to me that I can not, at this time, certify pay for such service as has been performed except on the condition that considerable deductions shall be made for unsatisfactory service; and that a notice must be served upon the company that if they shall not be able, between then, and say April 1, after due notice shall have been given to bring the service up to contract requirements, the contract will be annulled.

Mr. STAFFORD. Has there been any other difficulty of delay in the carriage of mail other than at the post-office and at the stations by means of the lifts?

Mr. SHALLENBERGER. I think it may be said that delays have occurred because of the difficulty in securing satisfactory employees in a new service like this—the want of expertness on the part of all employees in handling a new service. Various causes, I may say, have operated so that while I may not be able to specify in great particularity, yet I am constrained to say that the causes all combined seem as yet to be insurmountable, notwithstanding the company appears to be making every effort to bring the service to a proper standpoint.

Mr. STAFFORD. When did the contract for the screen-wagon service for the entire mail expire?

Mr. SHALLENBERGER. We terminated the wagon contract.

Mr. STONE. I think it was September 16; I see that the tunnel service began on September 17.

Mr. STAFFORD. And did you terminate it on that date?

Mr. SHALLENBERGER. Yes; on that date the company notified us that it was ready to give us full service.

Mr. STAFFORD. When would the contract otherwise have terminated if there had not been such substitute service?

Mr. STONE. June 30, 1907.

Mr. STAFFORD. How much of the service that should be performed by the tunnel company is now being performed by the substitute wagon service?

Mr. SHALLENBERGER. I will ask Mr. Crew, who is in direct charge of that, to answer.

Mr. CREW. I can not give the proportion, but we have called upon them to furnish such wagon service as is necessary to supplement the tunnel service when it fails. One day it is more than another.

Mr. SHALLENBERGER. Can you state, Mr. Crew, whether it is from the railway trains to the post-office for all mail, or simply the registered mail?

Mr. CREW. Largely for registered mail, but they have put on wagons for their mail in quite a number of cases, especially between the post-office and the Kinzie station, and the post-office and Station H.

Mr. SHALLENBERGER. I remember that the first complaint of the postmaster at Chicago was as to the lack of suitable equipment, insecurity in handling registered mail, claiming that wagons must be substituted whereby it would be possible for the registered matter to remain in the custody of trusted employees to an extent not possible at that time in the tunnel service, and we demanded of the tunnel company that they should furnish the wagons and proper security for mail pending the time when improvements which they contemplated would enable them to take care of it.

Mr. STAFFORD. Have they furnished such wagons?

Mr. SHALLENBERGER. Yes.

Mr. STAFFORD. Under the contract with the tunnel company, if you should cancel it for failure to perform, is the Government protected so that it would be reimbursed for any additional outlay expended on screen-wagon service?

Mr. STONE. If the contract with the tunnel company were annulled we would expect to be able to secure wagon service, and have the \$172,000, which is the tunnel pay, available for that service.

The CHAIRMAN. Are you protected by bonds as against the tunnel company's service?

Mr. SHALLENBERGER. Oh, yes; satisfactory bonds. I apprehended the question to be to about this extent: If the contract service failed, would we be able to supply temporary service of the character and speed contemplated by the contract, and hold bondsmen of the contractor responsible for any excess expenditure? We have no other service similar to the tunnel service; therefore we could not employ any like service in lieu of the present tunnel service. We should have to employ the best available service—automobiles or wagons—and if that

service did not cost the Government more than we were paying for the tunnel service, I apprehend that we would not seek to hold the bondsmen.

Mr. STAFFORD. It is not disputed that this tunnel service is more expensive than the screen-wagon service, is it?

Mr. SHALLENBERGER. It is not.

Mr. STAFFORD. It is, is it not, more expensive?

Mr. SHALLENBERGER. It is more expensive because of the proposed considerable increase in speed.

Mr. STAFFORD. Then by reason of default of the tunnel company in not being able to perform the service called for in that contract, should the Government by reason of quick notice be obliged to enter into a contract at an excess, there would be no protection on the part of the Government as to reimbursement by the tunnel company under this contract?

Mr. STONE. I would say that as long as the contract were permitted to remain in force that whatever extra wagon service we might find it necessary to employ to supplement the tunnel service we could charge to the contractor. But if we reach the point where we annul the tunnel contract that would wipe it out, as the Government would provide for further service.

Mr. STAFFORD. Then there is no provision in the contract to have the Government reimbursed for any excess outlay for wagon service in case the amount was more than reasonable by reason of hasty advertisement?

Mr. STONE. I suppose the Government might formally declare the tunnel company at fault, and then proceed upon the bonds for any damage sustained, if it was put in that form.

Mr. STAFFORD. Is there any provision in the contract with the tunnel company whereby the Government is allowed to substitute wagon service for part of the service to be performed by the tunnel company, and to be reimbursed by the tunnel company?

Mr. STONE. I think the contract contemplates that for temporary failures, or interruptions of the tunnel service, the tunnel contractor shall provide the necessary wagons to move the loads.

Mr. STAFFORD. What is the contract price of the tunnel company for this service?

Mr. SHALLENBERGER. The law fixes the aggregate compensation.

Mr. STONE. One hundred and seventy-two thousand six hundred dollars.

Mr. STAFFORD. And how much money additional thereto is being expended to-day for screen wagon service not covered by the tunnel service?

Mr. SHALLENBERGER. Over \$34,000 additional; not, however, in excess of the additional service; that we have always reported to Congress as necessary.

Mr. STAFFORD. It was represented when this contract was let that there would be still needed screen wagon service of a certain character.

Mr. STONE. The Second Assistant reported that the wagon service, which would continue to be necessary, would cost \$34,104.

Mr. SNAPP. Do you recommend that this appropriation be continued for the tunnel service?

Mr. SHALLENBERGER. I would recommend that it be continued,

but with a proviso to which I have alluded, that in the event we shall find it necessary to declare the contractor a failing contractor, and annul the contract absolutely, we shall have authority in the discretion of the Postmaster-General to use not exceeding that sum for alternative wagon service or automobile service.

Mr. SNAPP. Would you want such a provision under the terms of this clause?

The CHAIRMAN. One hundred and seventy-two thousand six hundred dollars is under a different item of appropriation, which covers electric-car service, and which was taken out of this item on account of the fact that the tunnel service really was electric-car service.

MAIL BAGS, CORD FASTENERS, REPAIRING EQUIPMENT, ETC.

The CHAIRMAN. In the item for appropriation for mail bags, cord fasteners, label cases, and labor and material necessary for repairing equipment, and so forth, you ask for the same appropriation, without increase, of \$50,000. Last year, you will remember, the committee appropriated approximately \$100,000 in excess of your estimate, with the distinct and plain statement that the additional \$100,000 for this purpose was to enlarge the number of mail bags, so as to create a sufficient surplus, as not to necessitate so frequent transmission by mail, and to enable the transmission to be made by freight at reduced expense to the Government. In view of that large increase last year, do you find that it will be necessary, for the fiscal year 1908, to have as much as \$450,000 for this service?

Mr. SHALLENBERGER. I do.

The CHAIRMAN. Is not a \$100,000 increase a greater proportional increase per year than you have ever before asked?

Mr. SHALLENBERGER. It is; but we have never before had the service up to anything like as satisfactory a condition as at present. The city of New York, especially, has been, during the Christmas holidays, compelled, in former years, to command surplus equipment from all the western cities, and wherever we could lay our hands upon it, by mail, under the most urgent rush orders. And our storehouse here has been so limited that we were not able to manufacture a sufficient quantity during the summer months to have at command, in store, for the Christmas holidays anything like an adequate supply, without giving rush orders all over the country. In addition to that, the administrative methods that we have inaugurated in recent years, and which the registry system has inaugurated in recent years, by which so many more "directs" as they are called, are made, eliminating delays and extra separations—a direct pouch being one that is fully made up by a post-office, or a sack that is fully made up by a publisher.

The CHAIRMAN. And which goes unbroken to the terminal office.

Mr. SHALLENBERGER. Yes. That has increased the amount of equipment necessary to be used. In New York City alone there has been a very large number of those sacks, which the publisher uses in making up their directs for distant places.

The CHAIRMAN. To what extent have these empty mail bags been sent by freight during the present year?

Mr. SHALLENBERGER. They have been sent whenever a stock accumulated to the extent of a carload anywhere.

The CHAIRMAN. Have there been many such instances?

Mr. SHALLENBERGER. Not nearly so many as we were led to believe there would be when we made the recommendation.

The CHAIRMAN. If the provision which Congress authorized relative to the carriage of empty mail bags where practicable by freight instead of mail as has been the custom, were now discontinued, and you were permitted to restore the old method of handling the empty mail bags entirely by mail, as you had before, would that require a less appropriation for the purpose of manufacturing bags, on account of the better speed that could be made in sending the empty bags to the points where they were needed?

Mr. SHALLENBERGER. I do not think so, because I have been conscious for at least six years that the division of equipment was running entirely too close.

The CHAIRMAN. Then your recommendation for this amount of money is based entirely upon what you regard as the real needs of the service with respect to the equipment, without regard to the method of its transmission?

Mr. SHALLENBERGER. Yes. I should even insist on more. If the committee will take up the reports running back for fifteen years and note the various appropriations for this particular branch of the service, they will see that they have not kept pace in anywise with the growth of the mail service.

The CHAIRMAN. What are the various sized bags that are now in use, the minimum and the maximum; has there been any change?

Mr. STONE. Yes; there has been an additional smaller sized bag made since last year.

The CHAIRMAN. That is, smaller than the minimum that was used last year?

Mr. STONE. Yes.

The CHAIRMAN. Do you recall what the minimum now is?

Mr. SHALLENBERGER. It is a sack holding, I think, about 20 or 25 pounds of matter, the lowest amount that publishers are expected to put in a direct sack, so that we will have the equipment bear as light a proportion to the mail as possible.

Mr. SNAPP. Are these canvas bags?

Mr. SHALLENBERGER. All canvas, excepting the bottoms of some of the pouches, where we use leather.

The CHAIRMAN. Have you any data from which you could advise the committee as to the total number of bags in use of various sizes?

Mr. SHALLENBERGER. Yes, I think we have that data.

Mr. STONE. I think the data at hand will only show the estimated total of all sizes. The estimated total number of pouches and sacks in the service June 30, 1906, was 1,957,602. If the committee will refer to page 110 of the report of the Second Assistant ending June 30, 1906, they will find that information by pouches and classes of all kinds of mail bags and sacks.

The CHAIRMAN. That citation will be sufficient. Have you made contracts for the construction of this equipment to cover practically the entire appropriation for the current fiscal year?

Mr. STONE. The contracts themselves would not cover this entire appropriation, because this appropriation covers also the other items, as you will notice.

The CHAIRMAN. I refer to this item; whether or not the orders for

this equipment will exhaust the appropriation of \$450,000 for the current fiscal year.

Mr. STONE. Practically; the existing contracts.

The CHAIRMAN. When will those additional bags contracted for or ordered since the 1st of last July be delivered?

Mr. STONE. Within the current fiscal year. They are being delivered constantly.

The CHAIRMAN. So that the appropriation under this particular item of \$450,000 for the current year will be utilized practically for equipment which will be delivered during the current year?

Mr. STONE. Entirely so.

The CHAIRMAN. And any appropriation which might be made for the fiscal year 1908 would apply exclusively to equipment to be constructed or manufactured and delivered during that fiscal year?

Mr. STONE. Yes.

Mr. STAFFORD. What proportion of the appropriation was utilized in furnishing sacks before the first of the calendar year?

Mr. STONE. I have not the data at hand to answer that question, but it can be furnished.

Mr. STAFFORD. For what length of time does this contract run?

Mr. STONE. It is a four-year contract.

Mr. STAFFORD. When was the last contract made?

Mr. STONE. You understand that we no longer make those contracts. That is a matter that is now really under the purchasing agent.

Mr. STAFFORD. Do you know whether the old contract is at present in force?

Mr. STONE. The four-year contract is now in force, and I think it has about two years to run; that is my impression.

Mr. STAFFORD. How long does it take to have a requisition on the contractor filled?

Mr. STONE. I think I can not give you the desired answer on that. If the order is a large one the contractor will have to make considerable preparation, and it is our custom at the beginning of the fiscal year to give an order of such size as will enable the contractor to manufacture and deliver a large quantity in anticipation of the increased demand for the holiday season, so that there is a greater number furnished during the first half of the fiscal year than there is in the last half.

Mr. STAFFORD. That is the purpose of my inquiry; what proportion the contractor furnished during the first half of the year to meet the heavy demand of the Christmas holidays.

Mr. STONE. This appropriation is regularly apportioned to the postmasters, limiting a certain per cent of it for each quarter. I do not have in mind the exact per cent for the September and December quarters, respectively, but it aggregates something more than one-half of it, the smaller apportionment being made for the March and June quarters.

Mr. STAFFORD. Did I understand Mr. Shallenberger to say that during the last Christmas holidays you were pressed for the proper number of sacks in the service?

Mr. SHALLENBERGER. Not for the last holidays. The last holidays have been the only ones for six or eight years wherein we have had sufficient equipment to meet the needs in New York City and other great cities.

Mr. STAFFORD. What method is followed in collecting and distributing these sacks so as to have them available at the various post-offices throughout the country where needed?

Mr. STONE. We have depositories at certain leading cities throughout the country, as, for instance, at New York, Cincinnati, St. Louis, Chicago, St. Paul, and San Francisco. The trend of mail matter is westward; consequently empty sacks will start from the East, notably New York City, and go to their destination—that is, the full sacks. The country is divided into certain zones or territories, and the postmasters within each territory are instructed to turn over empty equipment to a certain depository. When these bags accumulate into carload lots they are sent by fast freight to whatever point they may be most needed, particularly New York City. If a request comes in from a given point, say Columbus, Ohio, for more bags or sacks than they have on hand, we can order that filled from the nearest depository, say Cincinnati.

Mr. STAFFORD. Has there been any regulation made by reason of the new provision of law last year requiring the Department to send these empty mail bags wherever practicable, in freightable lots, from other post-offices than the post-offices of depository?

Mr. STONE. That statute provided for withdrawing the bags from the mails immediately prior to the reweighing, and there has not yet been a weighing since the statute was passed. However, the statute did not, for the first time, cause mail bags and sacks to be sent by freight, because we had been sending bags by freight for a number of years.

Mr. STAFFORD. Only in carload lots?

Mr. STONE. In carload lots.

Mr. STAFFORD. From these depositories and from no other?

Mr. STONE. No other. And last year the freight on those carload lots aggregated \$37,125.

Mr. STAFFORD. Has the Department made any regulation to carry these empty mail bags, whenever in freightable lots and whenever practicable, to provide for the third section in which the weighing is about to proceed in the forthcoming months?

Mr. STONE. There has been no regulation adopted at present. The whole question of freight rates is now under consideration by a committee appointed by the Postmaster-General.

Mr. STAFFORD. Arising out of this provision of law?

Mr. STONE. Yes, sir.

Mr. STAFFORD. As to the amount that should be sent by freight, and the method of sending by freight?

Mr. STONE. Yes.

Mr. SHALLENBERGER. Including supplies as well as equipment.

Mr. STAFFORD. Can you say when that committee appointed will be likely to report?

Mr. CREW. It is to meet to-day. I begged off in order to come here.

Mr. STAFFORD. Will this be the first meeting?

Mr. CREW. It will be the second meeting. It was appointed about ten days ago.

Mr. STAFFORD. Can you state when the committee will likely make a report?

Mr. CREW. They will do it soon, I think.

Mr. STAFFORD. In view of this regulation and so as to have it in effect before the next weighing takes place?

Mr. SHALLENBERGER. Yes, sir.

The CHAIRMAN. What is the practice or regulation of the Department which would seek to avoid the accumulation of empty sacks that might be withheld from use in the service?

Mr. SHALLENBERGER. Frequent notices are sent to postmasters throughout the country giving instructions to carefully look over their office and see if any empties are retained for any purpose whatever, or have been overlooked; and the general instructions are to forward them to the designated depositories.

Mr. STONE. That is merely supplemental. The postal laws and regulations make it obligatory upon the postmasters to dispose of their empty equipment immediately. Of course, post-office inspectors, in making their regular trips, look after that.

The CHAIRMAN. Is there any information as to persons who usually have need for large numbers of bags, like publishers, or even private individuals receiving and dispatching large mails, other persons than postmasters who may have an accumulation of empty bags?

Mr. SHALLENBERGER. There is no such information at hand, because we hold the postmasters directly responsible for the entire stock.

The CHAIRMAN. What is to prevent an individual whose mail has been sufficiently heavy to require full bags to be sent to him from holding those empty bags?

Mr. STONE. The local postmaster is expected and directed to keep a record of every pouch or bag that goes from his office to an individual, and to keep a record of its return.

The CHAIRMAN. I understand the law, and I understand the regulations, but I am seeking to ascertain how the department keeps a check on that to know that the empties are sent to depositories and are not held either by individuals, publishing houses, or even postmasters.

Mr. SHALLENBERGER. First, by the reports which we receive; second, by the traveling inspectors whom we send out to take note of all irregularities and report upon any suspected case.

Mr. SNAPP. Are there traveling inspectors attached to the office of the Second Assistant Postmaster-General who attend to this part of the business entirely?

Mr. SHALLENBERGER. No; not strictly inspectors.

Mr. SNAPP. Are there regular post-office inspectors that you refer the cases to?

Mr. SHALLENBERGER. No. Those that I have now reference to are regular inspectors under the jurisdiction of the Postmaster-General, who take note of all irregularities of every character. Then we have our traveling assistant superintendents who are directed, when reporting upon the wagon service or the electric-car service, to confer with the postmaster and report to us any improper detentions of equipment, and improper use of equipment, in connection with suggestions as to the general character of the service.

Mr. SNAPP. How many such traveling superintendents are there?

Mr. SHALLENBERGER. Nineteen, I believe, regularly on our rolls.

Mr. STONE. There are 24 altogether.

Mr. SHALLENBERGER. Yes; 5 attached to my office and 19 in the field attached to various divisions temporarily.

Mr. HEDGE. Here is a case that I would like to suggest. Suppose a Congressman from Tennessee receives a lot of public documents in bags, what check is on him or on the postmaster or anybody else to see whether they are returned or not?

Mr. STONE. It is the duty of the postmaster to see that those bags are emptied and returned. It is just like any regulation. It is presumed that the postmaster who had that to do will comply with the postal laws and regulations and enforce them.

Mr. HEDGE. Suppose the postmaster does not do that; how does the inspector find it out?

Mr. STONE. The postmaster is directed to keep account.

Mr. HEDGE. Is the postmaster charged with those bags when they come to his office?

Mr. STONE. No; there would be no way of doing that. The postmaster receiving a bag from a postal car on a train, or from a star route, could not keep an exact account of every one that comes in and goes out. That would be impossible.

Mr. HEDGE. Well, is it his duty under the regulations to keep account of every bag he sends out?

Mr. STONE. To private individuals or to corporations, yes; to anyone outside of the postal service.

Mr. STAFFORD. No receipt is taken by the postmaster from any person when the bag is delivered—that is, for the bag itself or for the return of the bag?

Mr. STONE. I think it is usual for the postmaster to do that as to individuals. They may do it as to newspaper companies, but I do not know.

Mr. STAFFORD. Is there any regular provision for such a check on the books for bags that are sent out to outsiders by the postmaster?

Mr. STONE. My recollection is that the regulations require them to keep a record of all delivered and all received; but I don't recollect the regulation that requires them to take receipts.

Mr. STAFFORD. Delivered and received by him in the post-office, or for a third party?

Mr. STONE. Delivered to parties outside of the postal service.

Mr. STAFFORD. Is there anything impracticable in requiring a system of checking on the part of the postmaster for all bags sent out to third parties?

Mr. SHALLENBERGER. I may say in reply to that that there is a system, a very complete system, of checking all sacks delivered to publishers from post-offices. A book of record is kept by the postmaster or superintendent of mails of all sacks furnished, and the returned sacks filled are checked, so that the equipment division, by correspondence with postmasters of various cities, is advised as to the number they have supplied, and that should be in the hands at any time of the publishers.

Mr. STAFFORD. To whom does the postmaster make reports?

Mr. SHALLENBERGER. That report comes to the Second Assistant's office, division of equipment.

Mr. STAFFORD. How often is that report made by the local postmaster, as to the bags on hand?

Mr. SHALLENBERGER. That I am not prepared to say. I only know that such reports are made.

Mr. STAFFORD. Is it more than once a year?

Mr. SHALLENBERGER. Oh, yes.

Answering your question, as to whether there is any check on postmasters throughout the country where sacks of public documents are received, I will say that, as I am advised, postmasters do take note of the number of sacks that go out of their offices to any member of Congress, or any one else, and keep tab on, to see that those sacks are returned; and the inspector, when going over the books and papers of an office, may have that memorandum before him, as he has other memoranda and records. That is my impression.

RENT OF BUILDINGS FOR MAIL-BAG REPAIR SHOPS, ETC.

The CHAIRMAN. Mr. Shallenberger, I observe that you make no recommendation with respect to the appropriation for rent of buildings for mail-bag repair shops and lock repair shops, and so forth.

Mr. SHALLENBERGER. I do not; that matter having been taken up by the Postmaster-General through the Chief Clerk of the Department.

The CHAIRMAN. It is not abandoned, you do not understand?

Mr. SHALLENBERGER. Oh, no.

The CHAIRMAN. What was the purpose of your withholding your recommendation?

Mr. SHALLENBERGER. With the understanding that a building would be selected which might be leased for all the various offices of the Department, the supply division, the mail-bag repair shops, the mail-lock repair shops, and so forth.

The CHAIRMAN. For supplies?

Mr. SHALLENBERGER. Yes, sir.

The CHAIRMAN. I may say that I have a letter from the Postmaster-General covering this point in detail, and that I will, before the close of the hearings, submit it. I rather think it ought to be taken up under the Fourth Assistant, because it includes the warerooms for

MAIL LOCKS AND KEYS, CHAINS, AND REPAIRS TO SAME, ETC.

The CHAIRMAN. I had overlooked the item of mail locks and keys, chains, tools, and machinery and so forth, \$45,000. You ask for the same appropriation?

Mr. SHALLENBERGER. The same appropriation.

The CHAIRMAN. That has been the item of appropriation in the same amount for a number of years?

Mr. STONE. Four or five years past.

The CHAIRMAN. Do you consume practically the entire sum?

Mr. STONE. Practically all of it.

Mr. SNAPP. Why does it not increase with all other items?

Mr. SHALLENBERGER. I can only give as an explanation the very particular economy with which the Service has been administered.

Mr. SNAPP. That is the strangest thing I have heard of.

Mr. SHALLENBERGER. We have repaired old locks and manufactured new locks at less cost, and I would be glad if every member of this committee could drop in on our mail lock repair shop and see the machinery we use, the discipline and skill evidenced at every point, and the economic methods that have been introduced.

Mr. SNAPP. May I ask who has direct charge of it?

Mr. SHALLENBERGER. Superintendent Andrus is the superintendent in charge of the shop.

Mr. STAFFORD. How many men are employed in this shop of various characters?

Mr. STONE. I haven't the record with me, but I can give you the amount expended for labor. The information you ask for could be very easily furnished.

Mr. SNAPP. Would not the number vary from time to time?

Mr. SHALLENBERGER. It slightly varies.

The CHAIRMAN. Will you state the amount charged for labor out of this fund?

Mr. STONE. Thirty-three thousand five hundred and forty-six dollars last year.

The CHAIRMAN. What is charged for labor out of the other item that I have referred to which is not included in your present recommendation—the \$14,000 item?

Mr. STONE. The \$14,000 is entirely for rent—well, there is a charwoman or two.

The CHAIRMAN. I noticed the watchman and charwoman. What amount should be applied for that purpose?

Mr. STONE. The wages paid charwomen were \$239 last year. I think that is all.

The CHAIRMAN. And what for watchmen?

Mr. STONE. There was no expenditure for that last year. On page 109 of the Second Assistant's report you will find all the items for that appropriation, and for the mail locks and keys appropriation.

RAILWAY-MAIL PAY.

The CHAIRMAN. I would suggest that the items affecting the railway-mail pay, which next follows, stand over, in view of what took place here yesterday, with the understanding that it may be taken up after members have had opportunity to read the statements that have been made and after the report of the Postal Commission, providing that is not too long delayed.

And the same with respect to that requirement about which there was some discussion yesterday with respect to the fines of railroads in maintaining the schedule. That was gone over in the discussion yesterday somewhat.

RECORD OF SECOND-CLASS MATTER.

The CHAIRMAN. The next item is the requirement for keeping a record of second-class matter. Mr. Shallenberger, can you inform the committee when that report will probably be made from the Department of the six months' weighing that terminated last December?

Mr. SHALLENBERGER. We expect to have it as near the 1st of February as possible, or within a few days afterwards.

The CHAIRMAN. It is in process of preparation?

Mr. SHALLENBERGER. Yes, sir.

Mr. SNAPP. Has there been a partial report made?

Mr. SHALLENBERGER. A partial report was made to the Postal Commission in executive session.

Mr. SNAPP. Covering what period?

Mr. SHALLENBERGER. The first three months.

The CHAIRMAN. I will state in this connection, in order that it may be entirely understood, that the only purpose which the Postal Commission had in receiving that information in executive session was this: If a partial report for one quarter or one-half of the entire weighing period should be made, and then later the regular report for the full period would be made, there would possibly arise a confusion in the minds of people as to which was the real report. And all that the Postal Commission was desirous of receiving at that time was the relative proportions of the various characters of second-class mail enumerated in this provision.

Mr. SHALLENBERGER. I may say that the full six months will necessarily change to some extent those proportions.

The CHAIRMAN. Exactly so; and the possibility that the relative proportions of these various characters of second-class matter might be changed by the full report led us to believe that it would not be fair to publish and put out something that might give occasion to confusion as to the real result of the weighing.

Mr. SNAPP. Would it not be well, Mr. Chairman, to have the partial report before us when we consider these items that have been passed temporarily?

The CHAIRMAN. It was my hope, Mr. Snapp, that before the subcommittee had concluded its work, to be able to make a full report to the House of the result of the Postal Commission; and certainly that Commission's report will be made before the full Post-Office Committee has taken up this bill, because I think it is due to the Post-Office Committee that before it completes the determination upon the post-office appropriation bill it should have before it the report of the Postal Commission.

RECORD OF MAIL ENTERED AT WASHINGTON.

The CHAIRMAN. This item will be temporarily passed with the understanding that before the close of the hearing it will be referred to, the same as the other items with reference to railway-mail pay.

RAILWAY POST-OFFICE CAR SERVICE.

The CHAIRMAN. Mr. Shallenberger, you may explain your recommendations relative to the railway post-office car service.

Mr. STONE. The estimate is \$6,073,000, an increase of \$198,000, or 3.37 per cent of the appropriation for the current year. This increase is a little less than the increased expenditure for the three preceding years, that for the current year being estimated.

The CHAIRMAN. That estimate I presume is based upon the rates authorized by existing law?

Mr. STONE. It is.

The CHAIRMAN. And the increase is intended for additional car service.

Mr. STONE. It is.

Mr. STAFFORD. I would like to have that item passed over also, if there is no objection.

The CHAIRMAN. I have no objections to that.

Mr. STAFFORD. I think that is part and parcel of the railway mail pay.

The CHAIRMAN. Yes; we may pass that over temporarily.

EMPLOYEES OF RAILWAY MAIL SERVICE.

The CHAIRMAN. If members will refer to page 30 of the skeleton bill, they will find a table with respect to this service which is a little more easily followed than the bill, on page 28, and which shows the various classes of postal clerks and those in the service July 1, under the authority of the current law, as well as the number of men and the proposed promotions and additional clerks which will be possible under the recommendation which the Second Assistant has made.

The total estimate for the railway mail clerk service is \$15,987,360, an increase of \$987,360, or 6.58 per cent.

I may say in this connection that the per cent of increase of the current law over the preceding year was 8.7 per cent. My understanding is that the scale of new clerk appointments and promotions possible under this recommendation would result in authority for appointment of 943 additional clerks, and the promotion of 2,247. Am I correct in that statement?

Mr. SHALLENBERGER. I will ask Mr. Grant, the acting general superintendent, to take up the items for this service.

Mr. GRANT. Yes, sir; that is right.

The CHAIRMAN. Are the promotions which would be noted in the column of this article headed "Promotions" above the \$1,200 a year compensation, intended for promotions in addition to the number indicated in the column headed "Additional clerks;" or do those figures opposite the various classes in the column headed "Promotions" include all new clerks which might be needed for the establishment of new R. P. O. service?

Mr. GRANT. They include everything.

The CHAIRMAN. The clerks which might be needed for entirely new R. P. O. service would be taken entirely from the lower grades, would they not, and promoted into the higher grades, in accordance with the organization of the crews?

Mr. GRANT. Yes, sir.

The CHAIRMAN. For example, opposite class 5B, the \$1,300 grade of compensation, there appears to be, under the estimate for 1908, in promotions 81, and additional clerks 20. Does that mean that there would be 81 clerks advanced from class 4A in addition to the 20 additional clerks needed in the column headed "Additional clerks?"

Mr. GRANT. No, sir; it means that in consequence of putting in 20 more men at class 5B there will result 81 promotions in that and the lower grades.

The CHAIRMAN. That, of course, depends somewhat upon the authorization for the promotions above class 5B. If there were no promotions above class 5B, it would not be possible, would it, to affect as many promotions as 81 in class 4B?

Mr. GRANT. That is right, sir.

Mr. STAFFORD. Do you mean above on the scale or above in salary?

The CHAIRMAN. Above in salary.

Mr. STAFFORD. Will Mr. Grant explain if there would be no promotions at all above class 5B in salary why there could not be more than 81 in that grade?

Mr. GRANT. If there were no promotions above class 5B there could not be but 20 above that—in that or in the class above.

Mr. STAFFORD. Oh, yes; I can see that by the scale, because you provide for 61 promotions in class 5A, which would provide the necessary vacancies.

Mr. GRANT. Yes.

AUTHORIZATION OF R. P. O. SERVICE.

Mr. SNAPP. Has there been any R. P. O. service authorized since July 1, 1906?

Mr. GRANT. Yes, sir.

Mr. SNAPP. How much and where?

Mr. GRANT. Well, in different sections of the country, aggregating \$32,408 out of this year's appropriation.

Mr. SNAPP. Is that the amount authorized on the 1st of January, 1907?

Mr. GRANT. Yes, sir.

Mr. SNAPP. From what appropriation will that be paid?

Mr. GRANT. From the appropriation for the current year.

Mr. SNAPP. My recollection is that the appropriation for this service has not been increased for the current year over last year.

The CHAIRMAN. No; the R. P. O. service was not increased.

Mr. SNAPP. Without an increase in that appropriation, how were you enabled to increase the service?

Mr. GRANT. The annual rate for the service on the first of the year was not equal to the appropriation made for this year.

Mr. SHALLENBERGER. After Congress had indicated its desire not to exceed their stated appropriation we began withholding all service except that most urgently demanded, and also inquired whether we might not reduce throughout the various eleven divisions certain service which was less needed than others.

Mr. SNAPP. Then you did not construe the fact that the appropriation had not been increased into a decision by Congress not to increase the service.

Mr. SHALLENBERGER. We did not. We believed that Congress wanted as large service as possible under the appropriation.

The CHAIRMAN. Were there any instances during the present fiscal year where the Department suspended any R. P. O. service which had been inaugurated before?

Mr. GRANT. They reduced the service between Saginaw and Detroit; the service was reduced between Davenport and Kansas City, but I am not positive whether it was within this year.

The CHAIRMAN. Attention last year was called to a long service across Texas, where but two clerks were the occupants of a full car. Has that practically continued?

Mr. GRANT. I think you mean from El Paso to Los Angeles, do you not?

The CHAIRMAN. Yes; I do mean that.

Mr. GRANT. That service is still in force.

The CHAIRMAN. Did you not understand last year that that was one of the reasons for not advancing this amount; that so far as the committee was concerned they did not think the service had been properly administered in some of these cases, and that it was not thought, so far as this committee was concerned, to stop a proper

service or inaugurate a new proper service where it was necessary, but rather that the Department had been too liberal in the distribution of this fund in places throughout the country where apartment-car service was equally as good?

Mr. SHALLENBERGER. Answering that question, before Mr. Grant takes it up, I will say that that was my own construction of the intent of Congress, and in compliance with that understanding these instructions to which I have referred were sent through the office of the general superintendent to the various division superintendents, to make careful inquiry as to the needs for existing Railway Post-Office service, with a view to curtail where possible and to increase where actually necessary by reason of the special growth of the service. Now the growth of the service in the State of Texas has been quite large within a year, and I will ask Mr. Grant to state what he has to say with reference to that State.

Mr. GRANT. Well, I can only say, Mr. Chairman, as I said last year, that I do not think we could handle the mails between El Paso and Los Angeles in a 30-foot apartment. The service that converges on El Paso is apartment-car service. We have got to have a full R. P. O. service somewhere on that route in order to complete the distribution. Now we are limiting our distribution through on some of the Texas routes, and on the Rock Island down from Kansas City to El Paso, but that mail necessarily masses on the one line going from El Paso to Los Angeles, and a 40-foot car is necessary.

The CHAIRMAN. Has there been any change with reference to the R. P. O. service between Kansas City and Denison, Tex., to which attention was called last year?

Mr. GRANT. No, sir; except to enlarge it.

The CHAIRMAN. Then your department, Mr. Grant, acted upon the theory that even if the committee called your attention to these cases, that you would follow your own judgment rather than the committee's suggestion?

Mr. GRANT. I didn't understand, sir, that the committee gave any instructions in that respect.

The CHAIRMAN. I did not say instructions; I said suggestions.

Mr. GRANT. Or suggestions.

The CHAIRMAN. The committee has no power to instruct. Did you not understand, Mr. Grant, that in the discussion of this item last year the committee, so far as the members of the committee were concerned, felt that if a less liberal distribution of this R. P. O. service were made in sections of the country, like the line from El Paso to Tucson, and from Kansas City to Denison, and in several other instances referred to, it would leave the service with an ample amount to meet the demands in the more congested settlements of the country? Was not that the plain disposition of the committee last year?

Mr. GRANT. There was some talk along that line, of course, but I hardly gathered from it the same inference that you make now. Of course, there was an evident desire on the part of the committee to have all unnecessary R. P. O. car service cut off or reduced. In the past year we have done it.

The CHAIRMAN. Yet you have not made any modifications in any one of these instances to which your attention was directly called last year?

Mr. GRANT. Because we felt we could not do it without injury to the service.

The CHAIRMAN. Have you ever regarded, Mr. Grant, in the administration of this office, that it made any difference to the Department what the suggestions of Congress might be, so long as it made the appropriations, and a lump sum appropriation would permit the Department to put all of it where they pleased? Is not that the construction of the law which your office has put upon it?

Mr. SHALLENBERGER. I should perhaps say——

Mr. SNAPP. I think perhaps Mr. Grant should be allowed to answer that question.

The CHAIRMAN. I asked Mr. Grant.

Mr. SHALLENBERGER. He gets the instructions from our office, however.

The CHAIRMAN. All right. If you want to draw Mr. Grant out of the hole, all right.

Mr. SNAPP. I think Mr. Grant ought to be allowed to answer it.

The CHAIRMAN. I have no hesitation in saying that it was clear to what I am pleased to call my mind that the committee called attention last year to these numerous instances where it was felt that a too liberal allowance had been made by the Department, and where, if a better administration of the R. P. O. service were made you would still have ample funds to meet the legitimate demands of the R. P. O. service in the country.

Now, since Mr. Grant states that there has not been any modification of the administration in the cases cited, but that there has been a more liberal allowance in some of them, either the committee was at fault or the Department has absolutely ignored the suggestions of the committee; and that prompts my question, Whether your bureau feels that it has arbitrary power to distribute this fund wherever it pleases, and that practically it is none of the business of Congress as to the method of distribution?

Mr. SHALLENBERGER. Of course, in a question that involves my responsibility I would like to say, before Mr. Grant proceeds with a technical answer, that I have agreed with the committee to this extent, that no additional R. P. O. service has been appropriated for, and therefore the committee expects the Post-Office Department, in the exercise of its wise discretion and under the instructions of the committee——

The CHAIRMAN. I hate to interrupt you, General, but I carefully stated that the committee did not instruct, but merely suggested. It has no power to instruct.

Mr. SHALLENBERGER. Very well. I understand that the committee does not desire to instruct in particular cases that they have not before it, but charges the Postmaster-General in his discretion to determine whether or not there should be a reduction or increase of our R. P. O. service. There must be discretion lodged in the executive officers somewhere. The executive officer in the Department has construed this to mean that the committee did not want or desire to increase the R. P. O. service, but does want a careful investigation made as to the lines to which it has made reference, with the intent to reduce R. P. O. service wherever in the judgment of the Department and in the exercise of its best discretion reduction can be made without impairing the service.

The CHAIRMAN. Necessarily the scale of employees in the R. P. O. mail service is determinable in part from the number of additional cars in the R. P. O. service which may be authorized. That is particularly true with reference to the grades above \$1,200. Is not that true?

Mr. SNAPP. I was just about to inquire into that, but, of course, it can be done later just as well as now.

The CHAIRMAN. Suppose we include this item in those which have been deferred, and thus give the members of the committee a little chance to brush up on it. Without objection, with the understanding that this item is to be returned to, we will pass on to the next item.

Mr. SNAPP. I suggest, however, that the stenographer will write up separately what has been asked, so that we can have that as a guide.

The CHAIRMAN. None of it will be printed until this whole day's work is done.

TEMPORARY CLERK HIRE.

The next item is for the temporary clerk hire in classes one and two for emergency service, \$50,000. Have you found that item, which has been operative now for two years, to be a pretty feasible method of meeting the situation?

Mr. GRANT. It is, indeed. It tides us over the holiday season very nicely, and also enables us to strengthen our lines along the eastern coast and in Florida, and during the summer-resort season, when there is congestion on the lines all along down the New England coast and New Jersey coast.

SUBSTITUTE CLERKS.

The CHAIRMAN. The item for substitute clerks for clerks on vacation, \$50,000, is the same amount that has been utilized for several years last past?

Mr. GRANT. Yes; that is just about what we use.

CLERKS INJURED WHILE ON DUTY.

The CHAIRMAN. With reference to the item of \$100,000, to cover the pay of active clerks in place of clerks injured while on duty, and to pay the sum of \$1,000 in case of death of active railway-mail clerks, what have you to say with respect to the number of accidents and deaths which became drafts upon this appropriation of last year or thus far during the current year?

Mr. GRANT. Up to November 30, which is the last date we could get data for, we had used of that appropriation \$31,551.82, leaving a balance of \$68,448.18.

The CHAIRMAN. How many injuries have been incurred, and how many deaths?

Mr. GRANT. I can give it; but I haven't it now. We do not compile it until the close of the year.

The CHAIRMAN. What was the number of deaths sustained and the total number of injuries?

Mr. GRANT. There were 328 casualties last year, and 16 clerks and 1 mail weigher were killed, 71 clerks seriously injured, and 414 slightly injured.

The CHAIRMAN. How does that compare with the deaths and accidents of the preceding year?

Mr. GRANT. Last year there were 328 casualties, as against 357 for the year before, and 378 for the year before that, and 372 for the preceding year. I will read back from this last year for the number of killed: 16 last year, then 12, 18, and 9; the number of seriously injured, 77, 25, 90, and 78; slightly injured, 414, 386, 348, and 398. Does that make it clear?

The CHAIRMAN. That is exactly the information I desire, Mr. Grant.

Mr. STAFFORD. Under the rules of the Department how long is a railway-mail clerk granted leave of absence when he is seriously injured?

Mr. GRANT. Under this provision, not exceeding one year; during the period of disability, not exceeding one year.

Mr. STAFFORD. The number of casualties, according to the figures you have just given, is less than the number in the prior year immediately preceding that of 1906?

Mr. GRANT. Yes, sir; the three preceding years.

EXPENSES DIVISION SUPERINTENDENTS, ETC.

The CHAIRMAN. In the next item, for the actual and necessary expenses of the general superintendent and certain other officials. \$20,000 has been appropriated for the current fiscal year. You recommend the same amount?

Mr. GRANT. Yes, sir.

The CHAIRMAN. There were certain of these officials heretofore carried in the postal service bill which have now been transferred to the legislative bill. I want to ask you if you made any deduction in your estimate for this expense for such officers as are enumerated in this item who are now cared for in the legislative appropriation bill?

Mr. GRANT. We have made no reduction in the estimate. We answered a letter some time ago as to what portions of that appropriation would be applicable to that purpose.

The CHAIRMAN. I directed the clerk of the committee to address a letter, the answer to which I have here, and at this point I will insert it in the record and read it for the information of the committee:

POST-OFFICE DEPARTMENT.

SECOND ASSISTANT POSTMASTER-GENERAL.

Washington, December 13, 1906.

Mr. E. L. WILLIAMS,

Clerk. Committee on the Post-Office and Post-Roads.

House of Representatives, Washington, D. C.

DEAR SIR: Pursuant to your verbal request I hand you herewith a statement showing the traveling expenses incurred by the general superintendent, assistant general superintendent, chief clerk, and assistant chief clerk. Railway Mail Service, while traveling on business of the Post-Office Department for the past six years.

1901	-----	\$201. 08
1902	-----	172. 30
1903	-----	109. 45
1904	-----	155. 50
1905	-----	212. 55
1906	-----	159. 95

Total ----- 1, 010. 83

Average yearly expenditure, \$168.47.

If, in consequence of the proposed transfer of the office force of the general superintendent to the executive, legislative, and judicial bill, it will be necessary to segregate the item of travelling expenses, I would suggest that of the

\$20,000 asked for, the sum of \$500 be allotted to the force in the office of the general superintendent, and that the item for traveling expenses in the post-office appropriation bill be reduced from \$20,000 to \$19,500.

Very respectfully,

W. S. SHALLENBERGER,
Second Assistant Postmaster-General.

In this connection, lest it escape me, I would like to inquire if what is estimated in the postal-service bill, on page 28, for railway postal service in the Railway Mail Service, you deduct the amount carried by these several officials who are now transferred to the legislative bill?

Mr. GRANT. That is, that \$500?

The CHAIRMAN. I mean the official salaries themselves.

Mr. GRANT. Oh, no.

The CHAIRMAN. In the official table which you furnished to the committee, on page 30 of the bill, are not those officials included?

Mr. GRANT. They are included in the figures printed in the skeleton bill.

The CHAIRMAN. That table was furnished from your office and printed in the bill just as it came down.

Mr. GRANT. I think the list of officers and employees in our office was made separately, and the statement was made that if they were to be included in the legislative bill they were to be deducted.

Mr. STAFFORD. Then you recommend, so far as the phraseology of this item is concerned, on the bottom of page 31, that we omit the designations of officials carried in the legislative bill?

Mr. GRANT. If that is the pleasure of the committee.

Mr. SHALLENBERGER. They have been actually carried into the legislative bill, have they not?

Mr. GRANT. The salaries have been, but I do not think the item of traveling expenses has been.

Mr. STAFFORD. I mean the actual traveling expenses of these officials now provided for in the legislative bill.

Mr. GRANT. I do not think they are. My understanding was that the provision in the legislative bill is for the salaries of these men, and not for their traveling expenses.

Mr. STAFFORD. If you think they should be carried in the legislative bill and not in the postal supply bill, why should not their expenses also be stricken out of this bill?

Mr. SHALLENBERGER. That question, if you will permit me to say, came up when I was before the legislative committee, and the amount being so small, supposed to be two or three hundred dollars, it was not deemed wise to make any special provision for it in the legislative bill.

Mr. STAFFORD. Do you recommend that we continue the allowance for them in this bill?

Mr. SHALLENBERGER. I recommend that that small item be continued here, inasmuch as they will be on such duty in the field and properly might be included with the list of other officers.

Mr. STAFFORD. Is not that the argument advanced by some members of this committee why those officers in the field should be continued in the postal-supply bill rather than carried in the legislative bill, as you recommend?

Mr. SHALLENBERGER. That is the recommendation that we made. This was a very small item, and when the question of segregating the two came up, and including in the legislative bill this fraction of \$20,000, or such proportion of that amount——

Mr. STAFFORD. Will the stenographer please read my question?

The STENOGRAPHER (reads):

Is not that the argument advanced by some members of this committee why those officers in the field should be continued in the postal-supply bill rather than carried in the legislative bill, as you recommend?

Mr. SHALLENBERGER. I do not think so, because they are Department officers, with little occasion to travel, and reporting daily with the other officials of the Department to the head of the bureau, with their correspondence submitted daily to the head of the bureau; and they can not be in any proper sense regarded as postal officials in the field.

The CHAIRMAN. Don't you think a better administration would follow by a little bit more traveling on the part of those officials?

Mr. SHALLENBERGER. Yes; and I think it was in view of that that Mr. Grant, the acting superintendent, has asked for \$500. There is a general expectation, you know, that the general superintendent, Captain White, will retire, and I simply say in advance that we expect that our present acting general superintendent shall be the general superintendent succeeding him in the early part of next month, and after that it shall be my desire, so long as I remain in the Department, to have the three officials who have been named in turn do a little more traveling than they have been accustomed to in recent years. The condition of health of the general superintendent has not been such as to make it desirable for him to travel as much as I think a general superintendent should travel in the supervision of so large and increasingly important a service.

The CHAIRMAN. That is only applied to the general superintendent, and yet these officials, including the assistant general superintendent and the chief clerk, have all gone to the legislative bill.

Mr. SHALLENBERGER. Yes. It will apply to the chief clerk, the assistant general superintendent, and the general superintendent, and, as in the case of other executive officers, I think the experience of the Department is that in recent years the service would be improved with a little closer touch between the chief officials and their subordinate officials in the field.

The CHAIRMAN. General, may I ask you in this connection if these officials would be regarded as sufficiently identified with the office of the Second Assistant Postmaster-General to warrant the suggestion that these traveling expenses could be paid out of the item of \$1,000 provided on page 36, "For travel and miscellaneous expenses in the postal service, Office of the Second Assistant Postmaster-General?"

Mr. SHALLENBERGER. I think it would be satisfactory.

The CHAIRMAN. I observe that of this sum appropriated last year you used only \$70.55, and this year recommend only \$500. Do you not think it would be better for us to strike from this item on page 31 of the bill the names of the superintendent, assistant superintendent, chief clerk, and assistant chief clerk, and whatever is necessary let the item be charged against the \$1,000 of the office of the Second Assistant Postmaster-General?

Mr. SHALLENBERGER. That would seem entirely proper. Perhaps their titles should be stated, so that it would be perfectly clear.

The CHAIRMAN. The point I am making is that, inasmuch as the Department has been so insistent on the transfer of these officers from the postal-service bill, without any of us surrendering our contentions that they should not be transferred, we having yielded for the sake of peace of mind, if they do not rightfully belong to that bill, then strike them out entirely.

Mr. SHALLENBERGER. I am acting on what I conceive to be the wish of the Postmaster-General in regard to the organization of his Department, and I can say that I see no impropriety in including, if it can be done, the item of traveling expenses of these officials in the allowance for the office of the Second Assistant Postmaster-General.

The CHAIRMAN. I am suggesting the omission of these designations from the postal-service bill, and you recommend that the \$1,000 which you formerly recommended be reduced to \$500; and if there is any traveling in the Second Assistant Postmaster-General's force, let it be charged in that item.

Mr. SHALLENBERGER. I do not see any reason at present why it should not be covered in that item.

The CHAIRMAN. I see you have expended only on the average about \$168, and in your own office last year \$78.75.

Mr. STONE. It should be explained that we formerly purchased out of that appropriation certain miscellaneous articles for our office, which under the decision rendered by the Comptroller, perhaps a year or a year and a half ago, had to stop, he taking the ground that articles used in the Department must be purchased out of the contingent fund of the Department and not out of this miscellaneous appropriation in the postal-service bill. Therefore we had to discontinue those items.

Mr. STAFFORD. Is that the reason, then, that you recommend the discontinuance of the proviso as furnished on the top of page 36?

The CHAIRMAN. Do you recommend that that be dropped out of the law?

Mr. STONE. Yes; we can not use it for these articles under the Comptroller's decision. You refer to the proviso "That a sum not exceeding \$300 may be used for the purchase of railway guides, city directories, and other books and periodicals necessary in connection with mail transportation?"

Mr. STAFFORD. Yes.

Mr. STONE. We now get those out of the contingent fund of the Department.

Mr. STAFFORD. Under the Comptroller's decision?

Mr. STONE. Yes, sir.

The CHAIRMAN. The recommendation for rent, light, and fuel, \$60,000, is an increase of \$2,000, on the top of page 32.

Mr. GRANT. That is just the natural increase, Mr. Chairman. We find that we are pretty well crowded on that item.

The CHAIRMAN. That is applicable at the various division headquarters?

Mr. GRANT. Yes; wherever we have to rent quarters. In some places we have chief clerks where there are no Government buildings, and we have to rent quarters for them, and sometimes we are tempo-

rarily turned out of Government buildings, as in the case of Atlanta now.

Mr. STAFFORD. Can you give me the amount of this item that is paid for these respective purposes—light, fuel, telegraph, and miscellaneous office expenses, schedules of mail trains, etc.?

Mr. GRANT. I can give you the statement, but I have not got it here. Do you wish it?

Mr. STAFFORD. Yes; I would like to have it—not for insertion in the Record, but for the use of the committee.

PER DIEM ALLOWANCE FOR ASSISTANT SUPERINTENDENTS.

The CHAIRMAN. I notice, General, that you recommend a division and new phraseology with reference to the appropriation for per diem allowance for assistant superintendents, and so forth. The proposal you make will appear in italics on page 32 of the bill. What is the need of that division? May I ask, also, if it was not formerly divided and later consolidated?

Mr. STONE. Formerly the two items were both in one, and then they were segregated by one of the committees—not this one—two years ago. Our estimate as submitted is, I think, exactly in the language of the existing law.

The CHAIRMAN. Except the separation.

Mr. STONE. The existing law says:

For per diem allowance of assistant superintendents, \$27,500; and for the necessary official expenses not covered by their per diem allowance, not exceeding \$2,500; in all, \$30,000.

Mr. STAFFORD. Of these amounts, how much was used in the last fiscal year?

Mr. GRANT. Per diem allowance, \$25,450. Then we had a deficiency of \$3,000, which came too late to be used. Of that, \$25,450 is out of the total sum, the \$3,000 deficiency included.

Mr. STAFFORD. Will you explain that again?

Mr. GRANT. I say we had an appropriation of \$28,000. We spent \$25,450, and turned in \$2,550, because the \$3,000 deficiency came too late to be used.

Mr. STONE. We had to stop many of our traveling men from traveling in the last month of the last fiscal year because the deficiency came too late.

The CHAIRMAN. This is only a net increase over the current authority of \$1,500?

Mr. GRANT. That is all.

Mr. STAFFORD. How many assistant superintendents are there that avail themselves of this, or are entitled to this per diem allowance for necessary expenses?

Mr. SHALLENBERGER. Twenty-four in all; five attached to my office, and nineteen in the field.

ELECTRIC AND CABLE CAR SERVICE.

The CHAIRMAN. In the item "For inland transportation of mail by electric and cable cars" you ask for \$50,000 additional.

Mr. STONE. This is an increase of 5.75 per cent over the current year. The act for the current year authorized some increases in the rate, the proviso being:

That the rate of compensation to be paid per mile shall not exceed the rate now paid to companies performing such service, except that the Postmaster-General, in cases where the quantity of mail is large and the number of exchange points numerous, may, in his discretion, authorize payment for closed-pouch service at a rate per mile not to exceed one-third above the rate per mile now paid for closed-pouch service; and for mail cars and apartments carrying the mails, not to exceed the rate of 1 cent per linear foot per car mile of travel, etc.

The CHAIRMAN. How has the Department found the proviso which occurs in the current law operative, and to what extent have the increases been made under that provision?

Mr. STONE. We have readjusted the compensation on lines in seven cities where we were having the most trouble to maintain the service, resulting in a net increase of about \$40,000.

The CHAIRMAN. Can you name those cities?

Mr. STONE. Yes, sir; Boston, Brooklyn, Philadelphia, Pittsburg, Baltimore, Chicago, and St. Louis.

The CHAIRMAN. Has the service been improved, in your judgment, with particular reference to the provision for these seven cities?

Mr. STONE. I think so.

The CHAIRMAN. Has it eased up the difficulty that existed at the time this was recommended?

Mr. STONE. Very materially, and perhaps prevented the service from being thrown down, as was threatened.

The CHAIRMAN. Has there been any embarrassment in the operation of the second proviso, which reads, "That the rates for electric-car service on routes over 20 miles in length outside of cities shall not exceed the rates paid for service on steam railroads?"

Mr. SHALLENBERGER. That has created quite a good deal of discussion with the companies, and their representatives have called upon the Second Assistant Postmaster-General to urge that that limit be extended to 50 miles. I have heard their arguments, but as yet have not been inclined to regard favorably their recommendations, for the reason largely that there is a tendency throughout the country now for steam railroads to electrify, and also a tendency on the part of competing electric lines out of great cities, running perhaps a distance of 50 or 60 miles, to enter the field of mail service. I do not believe it is wise to lead the electric and cable car companies to expect a larger compensation for such service 20 miles beyond the city limits than the steam railroads are now receiving, for the reason that in the judgment of the committee and in the judgment of the country, as I think, that compensation is enough.

Under this recent law we have been weighing the mails on all electric roads from a point 20 miles beyond the city limits, with a view to determining what rate should prevail on those roads; and I would like to have that tested further before I should consider a suggestion to change the limits, or in any way change the rate for long-distance service on electric roads.

I would say that there is at least one point where I can see a necessity for a little modification of our present law. In order that we might get a fairly competitive service from the electric and cable car companies, you will remember that last year I urged that in the principal cities we should have a rate a little greater than the law provided, for the reason that the cost of satisfactory wagon service was greater than the rates per mile for electric and cable cars, so that when the question came up as to whether we should establish wagon or

electric service, we frequently had to continue the wagon service, because the rate was not sufficient to secure competitive bids from the electric and cable car companies. We now have the opportunity of tendering them one-third more. That has worked satisfactorily, although many of the companies are claiming that a cent per lineal foot is not sufficient to cover the actual expense. Within a few weeks I have had representations made to me that the actual cost of handling these cars is in some cases 23 cents instead of 20 cents for the 20-foot car. Is that not true?

Mr. STONE. Yes.

Mr. SHALLENBERGER. As I have said, we have been successful in most cases in retaining all the desirable service and extending it. But in one particular the rate for closed-pouch service has not been adequate. It will be remembered that the old rate of 3 cents per mile for closed-pouch service was reported as reasonably satisfactory on long routes where the stops were not frequent and the mail reasonably light, and that last year the committee put in a proviso that where the quantity of mail is large and the number of exchange points numerous the pay may be one-third more, or 4 cents per mile. Now, we have discovered that where the route is 3 miles or less in length, as it is in some cases, and where the number of trips per day is frequent and the amount of mail large, because it goes to an important town, the street-car companies will not accept these rates, and they say that even 4 cents per mile will not compensate them at all. The consequence is that we have to provide star service or wagon service at very considerably increased cost, so that I have thought well, having had that information only within the last week or two, to prepare an additional proviso, and request that the committee increase the rate for closed-pouch service in that one particular. I will read the proviso that I would like to have included, following the one to which reference has just been made.

The CHAIRMAN. That is, it would be a third proviso?

Mr. SHALLENBERGER. Yes; a third proviso, reading as follows (reads):

And where the route is not more than 3 miles in length, requiring frequent trips, and the quantity of mail is large, the rate for closed-pouch service shall not exceed 6 cents per mile traveled.

The representatives of the companies demanded 7 cents.

The CHAIRMAN. The rate is now what?

Mr. SHALLENBERGER. It is now 4 cents, but I said I would rest on 6 cents for the present.

Mr. FINLEY. Have any of the companies cut out the service?

Mr. SHALLENBERGER. Not many; but the particular company I refer to in this case will not accept the service. It is very desirable, we think, that it should accept the service.

Mr. FINLEY. What city is that?

Mr. SHALLENBERGER. Carrollton, Mo.

The CHAIRMAN. If that proviso you have just read were adopted would it occasion any increase in the amount beyond what you have recommended?

Mr. SHALLENBERGER. I think not, for the present; it is so small.

Mr. STAFFORD. Has any electric service been discontinued by reason of this proviso that extends to the 20-mile service and beyond?

Mr. CREW. None has, as yet; but we are weighing, and we have

notice that unless the rates are materially increased over the railroad rates they will seriously discontinue. The rates are just now coming, and we are just now working them up.

Mr. STAFFORD. Can you give any comparison of schedule rates between electric car and railway as to service on electric cars beyond the 20-mile limit, where the quantum of mail would give more than the amount provided by the railway-mail pay?

Mr. CREW. As a rule the electric rates are higher than the railroad pay.

Mr. STAFFORD. How much higher are they?

Mr. CREW. I could not give you the difference offhand, but as a rule they are higher. Possibly where the service is frequent the electric-car rates would be one-third higher. I would have to examine the cases and make a specific report if you wanted a specific answer.

Mr. STONE. The rates of the steam roads are not affected, while the electric car is affected by the mail rate; and the more frequent you have them, the greater would be the compensation.

Mr. SHALLENBERGER. In a number of cases the electric-car rates are not greater, because we do not need the frequency that we need in other places. But where there is frequent service the rates by electric car would be higher, unless we had the opportunity provided by law to say that beyond 20 miles, regardless of frequency, we will not pay in excess of the railway mail rates.

Mr. STAFFORD. So there is no limitation at present in the law, as you construe it, relating to the frequency of service as a limitation on the electric-car pay?

Mr. SHALLENBERGER. Oh, yes. The frequency determines the electric-car pay, but in the case of the steam railroads it does not.

Mr. FINLEY. Is there not some complaint from the street car companies year after year that the rates are insufficient? Last year the argument was made that it was necessary to increase the pay for lines longer than 3 miles. Was that found sufficient to stop complaints from the street car companies.

The CHAIRMAN. That was covered, Mr. Finley, pretty fully before you came in, and they gave the detailed information.

Mr. FINLEY. The question I ask is this: Has the increase made on the last appropriation been sufficient to stop complaints as to the pay of electric lines?

Mr. SHALLENBERGER. It has not been sufficient to stop the complaints, because the companies in many cases—one or two that I have in mind, particularly—presented to us statements which showed that the cost of running a 20-foot car is 23 cents, instead of 20 cents, which the law allows them. But notwithstanding that, as I said, we have been able to get what we regard as requisite service and continue the service already in existence, so that we are not recommending at present any change in the rates.

Mr. FINLEY. Do you apprehend any serious trouble in transporting mails on lines 3 miles in length or less in the event your recommendation here is not carried out?

Mr. SHALLENBERGER. I think it will be difficult and perhaps impossible, but the number is not great. But we desire to have the best competitive service for all such places, and when a town as large as Carrollton, Mo., for example, sees a street car making frequent trips,

and we have a mail wagon to carry the mails, they say, "That is not up to the times. We should have a rate that, while it is not so large as a wagon rate, should give us better service." Hence I am asking that 6 cents a mile be given in those particular cases.

Mr. FINLEY. How many trips are there at Carrollton?

Mr. CREW. I think there are eight trips a day. We now have messenger service there also.

Mr. SHALLENBERGER. That could be readily estimated. Suppose that distance were 2 miles, making 4 miles per round trip; six times four would be 24 cents for the round trip. You can estimate whether a wagon could afford to do it for less. If a street-car company is willing to do it and deliver the mails into the post-office, I think that should be permitted.

The CHAIRMAN. General, may I inquire how much money, approximately, is now expended in the carriage in this way of the closed-pouch mail at 4 cents?

Mr. SHALLENBERGER. Very little so far.

The CHAIRMAN. If the entire pouch service which to-day receives the 4-cent rate should be increased to a 6-cent rate, what would be the total amount of the increase?

Mr. CREW. There is very little service at the 4-cent rate at present. Most of our service is at the 3-cent rate.

The CHAIRMAN. Then the 3-cent service would be raised to 6 cents?

Mr. CREW. On these short routes.

Mr. SHALLENBERGER. We do not raise it in that way. We do not ask 6 cents as a flat rate.

The CHAIRMAN. Yes; but nevertheless this is an entering wedge, and I would like to bring out, if possible, what the result would be in dollars and cents if all the service which to-day commands less than 6 cents should be really advanced to 6 cents.

Mr. SHALLENBERGER. We can get that readily.

The CHAIRMAN. Of course this would be applied by you under very decided limitations, but I think we might at this time learn, if we may, what the total increase would be if the service which in all instances now receives less than 6 cents were raised to 6 cents.

Mr. CREW. You mean the closed-pouch routes?

The CHAIRMAN. Yes.

Mr. CREW. Most of these are less than 3 miles in length. There would be but few of them.

The CHAIRMAN. Have you an idea of any approximate amount that you could give?

Mr. CREW. I would not like to guess at it. We can give you a statement on it later.

Mr. SHALLENBERGER. It might be interesting to the committee, also, if we would tell them how many of the routes carrying closed pouches, or having the closed-pouch service, are able to continue at 3 cents a mile, notwithstanding the action of Congress in permitting us to go to the 4-cent rate. As you will remember, we did not ask an increase of the appropriation commensurate with the authority to increase rates, so that we have been able to continue at 3 cents a mile very much of the service, and, as Mr. Crew has just said, the amount that has been increased to 4 cents would not be a large proportion. But there are still some cases in which we ought to have the authority to go as high as 6 cents.

The CHAIRMAN. Nevertheless the authority to advance the 3-mile limit of service to 6 cents would undoubtedly occasion many demands on the Department for increased pay.

Mr. SHALLENBERGER. Yes; and in each case, if we should grant it, the amount would be very small.

Mr. STAFFORD. Can you give in that table the amount of the respective kinds of service—that is, in the closed pouch, and in the apartment cars, and in the mail cars?

Mr. STONE. Yes; we can send that to you.

The CHAIRMAN. You may give the information by letter as to that.

Mr. SHALLENBERGER. Yes. We will submit it.

Mr. SNAPP. There was a question I wanted to ask in regard to this tunnel question in Chicago, which I do not think was answered. General, do you recommend that the appropriation of \$172,600 for the cost of mail service by underground electric cars in the city of Chicago be continued?

Mr. SHALLENBERGER. I will say, in reply to that question, that we have recommended the continuance of this because we are not yet prepared to say that the contract will be canceled. But the conditions are such as to make it very desirable that a slight modification of this provision should be made so that it would read—

That \$172,600 of the sum in this item appropriated is hereby made available for the purpose of covering the cost of mail service by underground electric cars in the city of Chicago, Illinois, and in the event of failure of such service, that a like amount be available for the purpose of substituting adequate service by wagons or other suitable vehicles.

Mr. SNAPP. Why would you require this amount if the service were to be performed by screen wagons or other vehicles?

Mr. SHALLENBERGER. We would possibly not require the same amount, but that amount should be left available, as we could not at this time state what amount would be required after due advertisement.

Mr. SNAPP. You recollect, however, that this appropriation provided over \$100,000 more than the screen-wagon service in the city of Chicago cost before this service was put into effect?

Mr. SHALLENBERGER. Yes; but you will also remember that the screen-wagon contract at that time in existence was \$106,000 for the entire city of Chicago, which was claimed to be wholly inadequate to provide the service, and which we have found in other great cities would be inadequate for the volume of service existing at that time. The increase of the mail service in the city of Chicago makes it altogether likely that if we were now to advertise for the service contracted for by the tunnel company, we should have to pay a sum considerably in excess of that which was named under the old contract. Hence I would say that the entire sum should be left available for the substitution of adequate service in the event that the tunnel service fails.

Mr. FINLEY. General, how is that service performed now, and at what cost annually?

The CHAIRMAN. I may say, Mr. Finley, that that was all gone over while you were out awhile ago, when the screen-wagon service was discussed at length by Mr. Stafford.

How would it do, General, to add at the close of the paragraph, as it now appears, the following:

And in the event of the failure of such service by underground electric cars, the said sum of \$172,000 is hereby made available for screen-wagon service at Chicago?

Mr. CREW. Why not make it "screen-wagon or other vehicle service?"

The CHAIRMAN. Yes; "screen-wagon or other vehicle service."

Mr. SHALLENBERGER. That would cover it, if provision is also made that at least one-fourth of that amount be immediately available. This bill, as you know, will not become effective until July 1. If the tunnel service fails, on the 1st of April we shall need one-fourth of that amount made immediately available.

The CHAIRMAN. Are you apprehensive that the tunnel service will really fail?

Mr. SHALLENBERGER. I am apprehensive, and indeed I am convinced, that unless we can improve conditions immediately, and to a very considerable extent, we shall have to substitute wagon service within the next month for certain portions of it.

Mr. SNAPP. Have you ever had any reason to believe that this tunnel company in Chicago would prefer to be relieved of this contract?

Mr. SHALLENBERGER. I have no such information.

The CHAIRMAN. I want to ask, in connection with that reply of yours: If the tunnel service should fail, would not the Government have a right of action upon the bond, which would enable them to recoup on any losses that might be sustained by the continuance of the service in any way that it would be possible to continue it?

Mr. SHALLENBERGER. As explained by Mr. Stone, I think the contract has a provision that, in the event the contractor shall be unable to fulfill the contract, the bond would be good for any increased cost made necessary by the substitution of adequate service.

The CHAIRMAN. That would give you the authority to step in there and, in any manner under your judgment that was best for the service, conduct it, and you could go ahead and have an action upon the bond?

Mr. SHALLENBERGER. If the amount exceeds the contract rate.

Mr. SNAPP. Do you think this company is in good faith trying to perform its contract?

Mr. SHALLENBERGER. I have every reason to believe it is. All the reports I have are to that effect.

Mr. STAFFORD. Is the company carrying any other kind of merchandise? Is the company carrying any merchandise on its cars in the operation of its franchise?

Mr. SHALLENBERGER. The information I have is to the effect that it is now performing service to certain of the large firms in Chicago, but only of the heavy freight, such as coal and other supplies—

Mr. CREW. And there is not much of that.

Mr. SHALLENBERGER. Yes; there is not much of that. The company has been preparing to conduct a general carrying business for mercantile houses, and has made connections with the basements, as I have seen, of several large firms. My visit to the tunnel at two different times gave me positive information to that effect, that they have made connection with certain large business houses, and the assurance that they gave me at that time was that such service would

not conflict with their contract with the Government, because we should have the exclusive right of way between the railway stations and the post-office at all times for the mail service, and that all other service would be performed secondarily to the mail service.

Mr. STAFFORD. Is that provided for in the contract?

Mr. SHALLENBERGER. That is provided in the contract. The reports that I have had since my last visit are to the effect that the manager is in good faith acting upon every suggestion that we make, or that the postmaster makes, that looks toward the increasing of the efficiency of the service. He is going to the expense of putting in additional chutes and protecting the mail as far as may be from injury in the chutes already provided, so that I have reason to believe that he is trying to bring the service up to contract requirements. But I am compelled to say that, notwithstanding such efforts, I am not now of the belief that he will succeed.

Mr. STAFFORD. For what contract period does this contract run?

Mr. SHALLENBERGER. The usual four-year period.

Mr. SNAPP. Do you think their failure is due to inability to perfect their system as rapidly as possible?

Mr. SHALLENBERGER. I think their failure is due to inherent difficulties in providing machinery which will carry the mails in the manner proposed with sufficient speed and safety between the post-office and the stations and between the several railway stations. The time required by the best mechanical appliances to handle mail in the tunnel as it should be handled—to drop it 40 feet and then to lift it 40 feet—the time necessarily consumed by these methods is so great that wagon or automobile service as a substitute will give better satisfaction to the postmaster and the public, and, therefore, to the Department.

Mr. SNAPP. From that does it not appear clear that it is useless to carry the appropriation for this service further?

Mr. SHALLENBERGER. No; because our contract obligation will require us to carry it until we can substitute something else for it.

Mr. SNAPP. Your obligation to the Government will require you to cancel this contract, will it not?

Mr. SHALLENBERGER. In due time.

Mr. STAFFORD. Have you not authority to inaugurate screen-wagon service, in case the mail can not be carried by the tunnel company under its contract, without any such additional authority as you now request?

Mr. SHALLENBERGER. We may have authority, but we have not the money. We have not estimated for it.

Mr. STAFFORD. You could come in at the next session of Congress and ask for a deficiency appropriation for that purpose, just the same as in the case of other items for which you have not sufficient money.

Mr. SHALLENBERGER. The law prevents us or prohibits us from creating a deficiency.

Mr. STAFFORD. Do I not understand there is a deficiency so far as the star-route service is concerned?

Mr. SHALLENBERGER. This is a contract covering the entire appropriation for a particular kind of service.

Mr. STAFFORD. Have you not authority to perform this service otherwise, if the contractor fails to perform it?

Mr. SHALLENBERGER. Yes, providing the appropriation would cover it.

The CHAIRMAN. Suppose the contractor at Indianapolis should fail under his present contract and it would be necessary for you to step in and perform the service, and it would cost you more than the present contract. You would not then ask for a deficiency. What is the difference between that and this case?

Mr. STONE. This is an appropriation made for electric-car service, and we could not employ an electric-car service to take its place. We would have to stop it and employ a different class of service.

The CHAIRMAN. That is a technical difficulty?

Mr. STONE. Yes.

The CHAIRMAN. And you now ask that there should be a proviso with the privilege of continuing the service with the same amount, if the tunnel method should fail?

Mr. SHALLENBERGER. Yes, and in that way the Auditor will pass the account.

Mr. STAFFORD. Is your Department making an experiment as to the carriage of mails under the wagon service by automobiles?

Mr. STONE. Yes. We had an automobile service in operation at the Buffalo Exposition, and it worked very satisfactorily. Subsequently we tried it at Minneapolis, and it was not a success.

Mr. STAFFORD. How long ago did you try it at Minneapolis?

Mr. STONE. Three years ago. More recently we arranged for it in Detroit, Mich., and there at the present time it is working very satisfactorily.

Mr. STAFFORD. Is the entire service covered by automobiles in Detroit?

Mr. STONE. No; just the one station, which is located $3\frac{1}{2}$ miles from the post-office.

Mr. STAFFORD. Do you consider that the phraseology providing for screen-wagon service is large enough to authorize the carriage of mails by automobiles?

Mr. STONE. It is, and for several years past in each advertisement looking to the letting of the wagon service we insert such a provision as will tend to attract proposals for automobile service also, but we have not been very successful in receiving them at reasonable rates. At the last letting in New York City we did receive one, but it was so excessive that it seemed to be out of the question to entertain it.

Mr. STAFFORD. Is there any other place in the country where it is now being carried by automobiles except in Detroit?

Mr. STONE. I do not recall any other at this time.

SPECIAL FACILITY TRAINS.

The CHAIRMAN. What has been the operation of the appropriation for special facilities from Washington to New Orleans?

Mr. STONE. The entire service was cut off from January 5, the Department having received notice from the railroad company that it would be unable to maintain those schedules after that date.

The CHAIRMAN. Do you make any recommendations as to this service for the next fiscal year?

Mr. STONE. The Department has not submitted any estimates for the next year, following in that respect the practice in the past.

Mr. SHALLENBERGER. I think I would be authorized by the Postmaster-General—I have not his specific authority, but I think I would be expected to make this year a positive recommendation that the service be omitted.

The CHAIRMAN. What have you to say with reference to special facilities from Kansas City to Newton, Kans.?

Mr. SHALLENBERGER. That continues, there having been no notice of change of schedule.

The CHAIRMAN. What recommendation have you to make with respect to it?

Mr. SHALLENBERGER. I would make the same recommendation, because I do not see exactly how the service can be satisfactorily maintained with only one or two little exceptions in that section of the country. As long as Congress sees a reason for appropriating for this service we will construe it as a desire that the Department should use it, but I can not see that our service will be improved by the continuation of this appropriation.

Mr. SNAPP. Is not this the first time you have recommended directly against this appropriation?

Mr. SHALLENBERGER. I have not done it because we omitted it from our estimates, according to the long-established practice of the Department, and it has not seemed necessary for us, in view of the action of Congress, to recommend against this appropriation.

Mr. SNAPP. That was not my question. I am not inquiring now as to your estimates; but is not this the first time before this committee that you have made a recommendation against this appropriation?

Mr. SHALLENBERGER. It is.

Mr. SNAPP. And that is made after the service was discontinued?

Mr. SHALLENBERGER. That was made after the experience of the past year leads me to know and say that there is no train service now on any road between Washington and New Orleans to meet the conditions I have imposed upon this particular service, and which I do not think Congress would wish me to change.

Mr. SNAPP. How much was deducted from the compensation provided for in this first paragraph from July 1, 1906, to January 5, 1907, when the service was withdrawn?

Mr. SHALLENBERGER. You will remember that we have not certified the payment for service as yet to January 5, or rather to December 31.

Mr. SNAPP. Does that mean you can not answer the question?

Mr. SHALLENBERGER. It means that I can not give you the exact statement. I can give you the statement for the quarter ended September 30. That is the only quarter in which deductions have been certified.

Mr. SNAPP. How long will it be before the other statement will be ready?

Mr. SHALLENBERGER. At the end of March quarter we certify pay and deduct for failures in the quarter ended December 31.

Mr. SNAPP. I want to find out why this company voluntarily abandoned this service. Possibly it was on account of their failure and the amount of fines and deductions?

Mr. SHALLENBERGER. I can give you, as I said, the statement of fines for the September quarter which would appear as deductions from pay certified for December quarter. Deductions for service performed in the December quarter will be stated at the close of the quarter ending March 31, and we will not be able to announce the deductions until the certification of pay for that quarter has been made.

Mr. SNAPP. When was the Department notified that the railroad would discontinue this service?

Mr. CREW. About the 1st of December.

Mr. SNAPP. Was it before or after the report of the Second Assistant Postmaster-General was prepared and published?

Mr. CREW. Since the report was published.

Mr. MOON. General, do I understand you to say that with your present information you recommend the discontinuance of both of these appropriations?

Mr. SHALLENBERGER. Yes. During the past year, especially in recent months, I have not found any train service South that could be maintained within five minutes of published schedules with any satisfaction to the Department or any satisfaction to the company. The dangers incident to an effort to maintain great speed under the congested conditions of traffic, involving as it does increased risk to our postal clerks and increased risk to the mails, leads me to think that I should rather favor a slight reduction in the speed of certain trains and a greater regularity in maintaining the train schedules throughout the country. Therefore the action of the last Congress in imposing a deduction of pay on all roads for their failure to observe their published schedules is a wise enactment, I think, and will benefit the entire service—

Mr. SNAPP. Resulting thereby in a reduction of the speed of a large number of trains in order that they may be on the safe side and be able to make schedule time?

Mr. SHALLENBERGER. I am not sure of that. The percentage of mail traffic being so small in proportion to other traffic, I am not sure but that the competition of the roads will still compel them to keep a speed approximately as great; but I will say this, that they will naturally desire to receive the full mail pay allowed by law, and the tendency will be to give the Department a greater regularity of the service throughout the country.

Mr. STAFFORD. Is one of the reasons why you recommend the discontinuance of this service the fact that you have had applications from other lines for added appropriations for their mail service?

Mr. SHALLENBERGER. No; but I have heard the statement that some railroad officials do not deem it fair that they can not share special-facility pay allotted by Congress to a certain western road. Why is it that one road should alone derive the benefit from a service which they jointly perform? The quite recent developments, I think, have led me to say that, all things considered, the advantages are now so slight, even from this service to New Orleans, which has seemed for years past to be a decidedly improved service, that it should be discouraged. The conditions which have made it well-nigh impossible to secure maintenance of schedule within the closing months of the last year lead me to think that it is wise for Congress to discontinue the effort.

Mr. SNAPP. Did you not say, when before this committee last year, that this resulted in a more expeditious service to the South and New Orleans?

Mr. SHALLENBERGER. I did, and I still think so.

TRANSPORTATION FOREIGN MAILS.

The CHAIRMAN. General, in reference to the item for the transportation of foreign mails, you ask for an increase of \$268,000, or 8.93 per cent. What occasions that recommendation for increase?

Mr. STONE. This is based on the cost of contract service which will continue in force next year and upon the percentage of increase of other items over previous years. There was a deficiency in the appropriation last year of \$216,000 and in the year before of \$100,000, and it looks as though there would be a deficiency this year.

ASSISTANT SUPERINTENDENT FOREIGN MAILS, NEW YORK.

The CHAIRMAN. The item "For assistant superintendent, division of foreign mails, with headquarters in New York, N. Y., \$2,500;" is it simply to pay the salary of that assistant?

Mr. STONE. Yes.

The CHAIRMAN. Has that position been filled by appointment?

Mr. STONE. Yes.

Mr. SHALLENBERGER. The position having been filled by appointment, and the need of a chief clerk being apparent, I desire to recommend that these words be added: "For chief clerk of the sea-post service, \$1,600."

The CHAIRMAN. Why do you call it "chief clerk" when you have but one?

Mr. SHALLENBERGER. We have clerks in the sea-post service who are under his jurisdiction.

The CHAIRMAN. In your recommendation for the Railway Mail Service, for the clerks, you ask for six chief clerks. Do you not intend one of them to be available for this assignment?

Mr. SHALLENBERGER. One would be available, and, as a matter of fact, one has been detailed for the service, so that we should need one less in the Railway Mail Service.

The CHAIRMAN. Then if Congress should authorize the recommendation you have made with respect to the Railway Mail Service, including six additional chief clerks, would it not cover this very point?

Mr. SHALLENBERGER. It would, and we want to drop one from it and transfer him to this service.

The CHAIRMAN. Your recommendation, then, is modified now to make that apply to five instead of six, and then make a chief clerk at the New York office, which would not result in any increase of your recommendation as to money?

Mr. SHALLENBERGER. That is the situation.

Mr. STAFFORD. What is the personnel of the office of assistant superintendent of foreign mails, and their salaries?

The CHAIRMAN. There is only one.

Mr. STAFFORD. I understood Mr. Shallenberger to say that various clerks were there in addition.

The CHAIRMAN. They are on the steamships—

Mr. STONE. Doing the same thing with respect to the foreign mails as the postal clerks do in the cars.

Mr. SHALLENBERGER. The chief clerk will have direct supervision of the clerks on the steamships. He will be assigned to duty in the office of the assistant superintendent of foreign mails, located at New York.

Mr. STAFFORD. Has he any other force, a clerical force, under him?

Mr. SHALLENBERGER. I think not.

The CHAIRMAN. It is simply one man, who is now detailed and acting as a chief clerk?

Mr. SHALLENBERGER. Yes.

The CHAIRMAN. Are there now authorized by law any such positions as chief clerks of sea-post service?

Mr. SHALLENBERGER. There is not.

The CHAIRMAN. This would be the single instance of that designation?

Mr. SHALLENBERGER. Yes.

Mr. STAFFORD. The clerks that are sorting the mail on the high seas are provided for on your appropriation?

Mr. STONE. Yes; as a special division in the item of the transportation of foreign mails, after the "transportation of foreign mails," following down [reads]:

That hereafter the Postmaster-General shall be authorized to expend such sums as may be necessary, not exceeding \$105,000, to cover one-half of the cost of transportation, compensation, and expense of clerks to be employed in assorting and pouching mails in transit on steamships between the United States and other postal administrations in the International Postal Union, etc.

Mr. STAFFORD. How many clerks are so employed, and what are their compensations?

Mr. STONE. There are 35 of them, I think. I can not give you the exact number.

Mr. STAFFORD. Can you furnish the committee with the exact data?

Mr. SHALLENBERGER. We can furnish the committee with the data. There are two classes, \$1,200 and \$1,400 clerks.

The CHAIRMAN. And the number, respectively, in each of the classes?

Mr. SHALLENBERGER. Yes, sir.

BALANCES DUE FOREIGN COUNTRIES.

The CHAIRMAN. The item of balances of money due foreign countries you ask to be increased from \$153,000 to \$179,000. Please explain how these balances arise.

Mr. STONE. Each country pays money to the other country for service rendered in carrying the mail of the first country over the territory of the second country. For instance, to illustrate, if the United States wishes to send mail to Russia, passing over German soil, we would have to pay Germany a transit rate for carrying our mail across her territory. On the other hand, if Germany wanted to send mail to Mexico by way of the United States, Germany would have to pay the United States for carrying her mail across our territory. Those accounts are kept and the balances struck, and each country settles with the other. Those expenditures for some years past have been based upon statistics taken back in 1896. Those statistics are taken for a period of twenty-eight days, and on the weight

ascertained during those twenty-eight days settlements are made for the following period, as may be agreed upon by the foreign countries.

As I say, for some years past these rates have been based upon the statistics taken and the results ascertained by weighing the mails back in 1896, but according to the action of the International Postal Conference that met in Rome last year, 1906, new statistics are to be taken in May, 1907, which will apply during the fiscal year 1908 to this item under consideration; and this increase in our estimate is made in consequence of a very material increase of the weight of mail anticipated to be shown by these new statistics.

The CHAIRMAN. Is it always a balance due to the foreign countries from the United States?

Mr. STONE. No; in other cases there will be balances due to the United States. In such cases the money goes into the Treasury.

The CHAIRMAN. When there is a balance due us from another country for that service rendered to that country to what use is that money applied when deposited with the United States?

Mr. STONE. It is not available for our use.

The CHAIRMAN. It goes into the general fund, does it?

Mr. STONE. I think so.

The CHAIRMAN. Is credit given to the postal service for that fund?

Mr. STONE. I do not know whether credit is given or not.

The CHAIRMAN. Whenever there is a payment by the United States to foreign countries on account of balances due them the expense is always made from this appropriation, but you can not tell whether or not we get any credit for any sums paid to us, or any balance due in our favor?

Mr. STONE. I think it is deposited in the Treasury on general account.

The CHAIRMAN. Don't you think the postal service is entitled to that as a credit?

Mr. STONE. I do.

The CHAIRMAN. What steps are necessary to ascertain how that credit should be given to the postal revenues?

Mr. STONE. I should think likely the Treasury Department would be the one to answer authoritatively.

The CHAIRMAN. Can you inform the committee by letter, without too much unnecessary research, how these balances have run for the period of the last ten years?

Mr. STONE. I think so.

The CHAIRMAN. Will you be kind enough to send a letter to the committee stating the amount of the balance paid or received each year for the past ten years?

Mr. STONE. I think we will have to get that from the Treasury Department or the Auditor's office, but I believe it is obtainable.

The CHAIRMAN. It would seem natural, would it not, that the amount of work that we do for other governments would at least equal what they do for us? Or is it your information that our mail is so heavy into other countries that we are obliged to depend upon intermediate countries transporting it?

Mr. STONE. I should say offhand that one would compensate the other.

The CHAIRMAN. And yet there has been an average payment of this fund, for at least the last seven years, of about \$150,000, the

average expenditure being about \$140,000 a year, although the average appropriation has been about \$150,000. Those figures indicate the total appropriations and the total expenditures, from which it would appear that the balance has been decidedly against us, at least since 1900.

Mr. STONE. No; it would mean the net amount that we would have to remit to certain countries, but it would not include the amount which other countries remitted to us.

The CHAIRMAN. This is for "balances due," and would it not be better to change this and make it "amount due?"

Mr. STONE. No; it is only balances on those particular accounts against us.

The CHAIRMAN. There is nothing to show that there are any in our favor.

Mr. STONE. These are the ones I refer to that are turned into the Treasury.

Mr. MOON. You say that as to a letter sent from here to St. Petersburg, through Germany, we have to pay the German Government for carrying it over their territory? We have to pay it to the German postal line on an international agreement?

Mr. STONE. By an international agreement applicable to all countries.

Mr. MOON. Then we pay the passage over Russian territory, too?

Mr. STONE. No; after it reaches the boundary line the Russian Government takes care of it.

The CHAIRMAN. The item relating to the payment of travel and miscellaneous expenses in the Second Assistant Postmaster-General's office was discussed already in connection with an earlier item. This closes the items under discussion in the Second Assistant's office, except those passed by for a later date.

(Thereupon, at 1.35 o'clock p. m., the subcommittee adjourned.)

POST-OFFICE DEPARTMENT,
SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, January 15, 1907.

SIR: Replying to the verbal inquiry of your committee, I have to inform you that the total number of United States sea post clerks in the service is 31, of whom 16 receive a salary of \$1,400 per annum and subsistence while abroad, and 15 receive a salary of \$1,200 per annum and subsistence while abroad.

Very respectfully,

W. S. SHALLENBERGER,
Second Assistant Postmaster-General.

Hon. JESSE OVERSTREET,
*Chairman, Committee on the Post-Office
and Post Roads, House of Representatives.*

POST-OFFICE DEPARTMENT,
SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, January 16, 1907.

SIR: Replying to the verbal request that your committee be furnished with a statement showing the amounts received from foreign countries as balance due from them on account of the transportation of their mails by years for the past ten years, and whether the said amounts are credited to the postal revenue, I submit herewith a

copy of a letter received from the Auditor of the Treasury for the Post-Office Department, who is charged with keeping such accounts, which gives you the desired information.

Very respectfully,

W. S. SHALIENBERGER,
Second Assistant Postmaster-General.

HON. JESSE OVERSTREET,
*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

TREASURY DEPARTMENT,
Washington, January 15, 1907.

SIR: Agreeably to the request contained in your letter of the 12th instant, I beg to submit herewith a statement showing the amounts received from foreign countries as balances due on account of the transportation of their mails, for the period commencing January 1, 1896, and ending December 31, 1905, the latest date of settlement.

Year—		Year—	
1896	\$124, 928. 29	1902	\$161, 258. 71
1897	167, 409. 27	1903	165, 299. 44
1898	107, 320. 94	1904	196, 439. 58
1899	152, 182. 39	1905	75, 827. 59
1900	160, 326. 24		
1901	152, 863. 54	Total	1, 463, 855. 99

I may add that the above sums are treated as postage collected in money and are deposited in the United States Treasury to the credit of postal revenue.

Respectfully,

ERNEST G. TIMME, *Auditor.*

THE SECOND ASSISTANT POSTMASTER-GENERAL,
Post-Office Department.

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
Monday, January 14, 1907.

Committee called to order at 10.35 a. m.

**STATEMENT OF HON. EDWIN C. MADDEN, THIRD ASSISTANT
POSTMASTER-GENERAL.**

MANUFACTURE OF POSTAGE STAMPS.

The CHAIRMAN (Mr. Overstreet). Mr. Madden, we will consider this morning the item of the appropriation bill within the jurisdiction of the Third Assistant. At the outset, I would like to inquire what the status is with reference to your jurisdiction in the manufacture of stamps. Does the Department still secure the stamps through manufacture under your jurisdiction, or are they now under the jurisdiction of the purchasing agent as a supply?

Mr. MADDEN. The regulation requires that the specifications be formulated in the office of the Third Assistant Postmaster-General, and that they be reviewed by the purchasing agent and agreement reached, and he lets the contract, or buys the article, whatever it is.

The CHAIRMAN. But in determining the amount of appropriation to cover the cost of the manufacture of postage stamps, is it proper to consider that as with the Third Assistant or the purchasing agent?

Mr. MADDEN. I have never thought that was with the purchasing agent at all.

The CHAIRMAN. Then you are informed with reference to that item of appropriation the same as you have heretofore been.

Mr. MADDEN. Yes, exactly.

The CHAIRMAN. And when we come to the manufacture of stamped envelopes, is the same thing true?

Mr. MADDEN. The same thing is true.

The CHAIRMAN. And yet the authority for the execution of the contracts falls rather more directly under the purchasing agent?

Mr. MADDEN. Under the opinion of the Assistant Attorney-General, stamped envelopes are supplies.

The CHAIRMAN. The first item which you will see, from the arrangement of the skeleton bill on page 36, refers to the estimate of the Department for the manufacture of stamps; and there you ask an increase of \$41,000, or 7.45 per cent. Was the contract let for a new period of four years?

Mr. MADDEN. Yes.

The CHAIRMAN. And is this estimate based upon an increase in rate for manufacture or an increased supply of stamps?

Mr. MADDEN. Based upon the increased supply at the old rate, because we did not know the new rate. The bids were not opened until after the estimates were prepared.

The CHAIRMAN. Have you any additional information to give the committee on this appropriation in the light of that contract?

Mr. MADDEN. I have not; I have never seen the bills.

The CHAIRMAN. Then you do not know whether it would require a greater or a less sum?

Mr. MADDEN. I believe it would be about the same, on the average; but I am not positive on that point.

The CHAIRMAN. You will remember that last year the committee arbitrarily increased by a considerable sum the amount of the estimate for this to avoid the possible embarrassment of there not being enough money to meet the real and proper demands of the public for stamps.

Mr. MADDEN. Yes, sir.

The CHAIRMAN. And the leeway was regarded as better than to exempt the Department from the operation of the law against deficiencies.

Mr. MADDEN. Yes, sir.

The CHAIRMAN. Have you taken into account that arbitrary increase in making the estimate of a greater increase this year?

Mr. MADDEN. No; that arbitrary increase of last year accounts for the fact that our estimates this year are less than the appropriations for the last year.

The CHAIRMAN. So that if the committee had not arbitrarily increased that, there would probably have been a deficiency this year?

Mr. MADDEN. I think there would have been, but I am not prepared to answer that question offhand.

The CHAIRMAN. Of course; my understanding is that whatever this appropriation is, it is merely used for the manufacture of stamps to meet the demand for stamps.

Mr. MADDEN. That is right.

The CHAIRMAN. And if that demand should be slow the appropriation would not be used; and if it should be excessive, and the appropriation exhausted, you would have no right to make a deficiency; so therefore the public would be greatly embarrassed.

Mr. MADDEN. Yes.

The CHAIRMAN. And for that reason the arbitrary increase is to afford an easeway; and, notwithstanding that arbitrary increase, you are not going to have as much money this year to meet the real demand for stamps. Is that your understanding?

Mr. MADDEN. That is about it; yes. With regard to postage, the increases in the issue of ordinary stamps, including those issued in book form, during the fiscal year ending June 30, 1906, was 9.27 per cent over the issue of the previous year and 10 per cent is implied in estimating the increase for the year 1908. I notice in your skeleton bill here that there is a decrease from the appropriation of last year of \$40,000.

The CHAIRMAN. Yes; I see that I made an error there.

Mr. MADDEN. Yes; it is a decrease.

MANUFACTURE OF STAMPED ENVELOPES AND NEWSPAPER WRAPPERS.

The CHAIRMAN. The next item is for the manufacture of stamped envelopes and newspaper wrappers. You ask for an increase of \$227,000, or 21.11 per cent. Is there any increase in the rate to be paid for the manufacture of stamped envelopes and newspaper wrappers, or is this increase to meet the greater volume required?

Mr. MADDEN. The greater volume.

The CHAIRMAN. Has there been any change in the contract for that character of work?

Mr. MADDEN. If my memory serves me correctly, the advertisements have been placed for the new contract, but I do not know that the bids are in, and do not know at what figure the new contract will be let.

The CHAIRMAN. When does the existing contract expire?

Mr. MADDEN. In about six months from now, I should say.

The CHAIRMAN. And this estimate is based upon the existing contract?

Mr. MADDEN. The old contract; yes.

The CHAIRMAN. And the figures may be modified by the new contract?

Mr. MADDEN. Yes.

The CHAIRMAN. When is it likely that the figures for that new proposal will be available at your office?

Mr. MADDEN. They come to the purchasing agent and are not available to me unless I get them indirectly.

The CHAIRMAN. Do you know whether they are to be opened within a reasonable time?

Mr. MADDEN. I think they are to be opened pretty soon, but just when I can not say. I did not inform myself before coming up.

The CHAIRMAN. This estimate is based upon the existing contract?

Mr. MADDEN. Yes, sir.

Mr. LLOYD. Who manufactures the stamped envelopes?

Mr. MADDEN. The Hartford Manufacturing Company, of Hartford, Conn.

Mr. LLOYD. Do you let the contract to the lowest and best bidder?

Mr. MADDEN. Yes, sir.

Mr. LLOYD. At four-year periods?

Mr. MADDEN. Yes, sir.

Mr. LLOYD. It is open to any competitor that may desire to enter?

Mr. MADDEN. Yes, sir.

Mr. LLOYD. Anywhere in the United States?

Mr. MADDEN. Yes, sir.

Mr. LLOYD. And what are, in general, the terms of the proposal?

Mr. MADDEN. It is a document as large as this bill, so I could not very well recite it.

Mr. LLOYD. Are all of the specifications sent to everybody?

Mr. MADDEN. To all of those who ask for them in response to the advertisement. The terms are generally specified in them.

Mr. LLOYD. Have you had any complaint from any publishers of newspapers, or other publishers, against the Government furnishing envelopes?

Mr. MADDEN. Once in a while there is one; yes, sir.

Mr. LLOYD. Do you know whether it is based upon a misconception of the facts themselves—that they are manufactured by the Government, or under a private contract, or how?

Mr. MADDEN. The complaint is substantially this, as I understand it, that because of the Government printing the return card on the envelope deprives printers here and there of that much work. The Government limits the printing to the bare name and address of the sender and the request to return in so many days.

Mr. LLOYD. That stamped envelope is sent to the Government Printing Office—

Mr. MADDEN. No; it is printed by the contractor. He prints everything at one time, the stamp on the envelope and the return request.

Mr. LLOYD. Why should there be any complaint about the printing if that printing is let through a public bid?

Mr. MADDEN. I think that there should be no complaints, inasmuch as the opportunity to all is open to bid at the time the contract is let.

The CHAIRMAN. Have you any other matter that you care to call to the attention of the committee in connection with this item?

Mr. MADDEN. Only, I would say, that it is a great benefit to the service to have the return card printed on the envelopes, for the percentage of letters which fail of delivery are then easily returned to the sender. They are, too, more expeditiously handled than ordinary envelopes with stamps placed upon them, for the reason that the stamp is always found to be in the proper place; and whether it be cancelled or not by the machines the fact that it passed through the mail is always evidenced by the breaking open of the envelope after delivery. It is impossible to use that again. There are other incidental advantages in the stamped envelopes which I could name, but they are not fresh in my mind at present.

Mr. FINLEY. And also relieve somewhat the burden in the dead-letter office.

Mr. MADDEN. Oh, yes. The constant and great increase in the demand of the public for these return card envelopes shows the appreciation of the public of that service.

PAY OF AGENTS AND ASSISTANTS TO DISTRIBUTE STAMPED ENVELOPES AND NEWSPAPER WRAPPERS.

The CHAIRMAN. The next item is for the pay of agents and assistants to distribute stamped envelopes and newspaper wrappers. You

ask for a slight increase there of \$660. Is that for an additional employee?

Mr. MADDEN. Yes, sir; it is for additional help. The factory is working very much of the time now at night, and we find that we can not give the proper supervision.

The CHAIRMAN. That \$660 is intended to employ one additional person, is it?

Mr. MADDEN. One additional laborer, if I remember correctly.

The CHAIRMAN. And not intended to distribute to those now employed by way of increases?

Mr. MADDEN. No.

Mr. SNAPP. Where is this agency?

Mr. MADDEN. In Hartford, Conn.

MANUFACTURE OF POSTAL CARDS.

The CHAIRMAN. The next item is for the manufacture of postal cards, and you recommend a decrease of \$36,000. There was similar action taken by the committee with reference to this item respecting an arbitrary increase of amount, and you found for the next fiscal year that you can meet all the purposes with \$36,000 less?

Mr. MADDEN. That is our estimate.

The CHAIRMAN. What is the period of that contract; when does it expire?

Mr. MADDEN. That was recently made, sufficiently recent to enable us to base this estimate upon the figures.

The CHAIRMAN. Was that let under the same method, by public advertisement?

Mr. MADDEN. It was.

The CHAIRMAN. And what concern secured the contract?

Mr. MADDEN. I am at present at a loss for the name.

The CHAIRMAN. Was it the same concern as before?

Mr. MADDEN. No; the prior contractor died, and his estate carried out the contract. The new contract, if I am correct, is let to a company which formerly manufactured the paper for the old contractor.

The CHAIRMAN. Is the contract that is now in effect more advantageous or less advantageous to the Government than the former contract?

Mr. MADDEN. Somewhat more advantageous, I think, but I am not positive about that.

The CHAIRMAN. Do you regard it as equally as good or better?

Mr. MADDEN. About the same.

Mr. SNAPP. Where were the specifications for that contract prepared?

Mr. MADDEN. In the Third Assistant's Bureau.

Mr. SNAPP. Was that contract let to the lowest bidder?

Mr. MADDEN. It was.

PAY OF AGENTS AND ASSISTANTS TO DISTRIBUTE POSTAL CARDS, ETC.

The CHAIRMAN. The item of appropriation for the pay of agents and assistants to distribute postal cards and expenses of agency is the same as the present law. There is no change in that?

Mr. MADDEN. Yes.

Mr. SNAPP. Is that agency also at the place of manufacture?

Mr. MADDEN. Yes, sir.

The CHAIRMAN. Where is the place of manufacture under the present contract?

Mr. MADDEN. Rumford Falls, Me.

The CHAIRMAN. Where was it under the preceding contract?

Mr. MADDEN. At the same place.

The CHAIRMAN. The same place, but a different contractor?

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. As to the contract for postal cards and the contract for stamped envelopes, upon whom is the burden for paying the charges for delivery to post-offices throughout the country?

Mr. MADDEN. They are accepted in the mails as mail matter, and under certain conditions, when there are carload lots, they are sent by freight whenever it is advantageous to do so.

Mr. STAFFORD. Has any criticism arisen with respect to the contract for stamped paper from manufacturers of envelopes, that the payment of freight charges by the Government, or the transporting of them in the mail, was an undue advantage the Government had in the sale of these envelopes whereby private contractors could not compete with the Government?

Mr. MADDEN. Not that I know of; and inasmuch as it is open to all on equal terms, I don't see how complaints can be made about that, because the contractor can have the same advantage.

Mr. STAFFORD. Any contractor that would have sufficient means to undertake such a large contract, involving the expenditure of over a million dollars, might be able to compete, but a small supplier of envelopes, though he might be capitalized for \$100,000, might not be in a position to compete, for the product of the Government would come in direct competition with the sale of envelopes without the embossed stamp.

Mr. MADDEN. The terms of the contract say: "And acceptance by the Government at the place of manufacture."

Mr. STAFFORD. I was not taking up the question of the outside contractor having any ground of complaint as to the wording of the contract, but I am making the point whether the manufacturers of envelopes might not criticise the undue advantage the Government has in dropping down envelopes at any place in the country in competition with their wares, at reduced rates, because the Government is paying the railway mail charge on them and not taking that into consideration in estimating the price.

Mr. MADDEN. I know of no such complaint.

ASSISTANT SUPERINTENDENTS AND SPECIAL AGENTS DIVISION OF
CLASSIFICATION.

The CHAIRMAN. The next item is on page 38 in italics, which were items estimated originally for transfer of the legislative bill with reference to superintendents of Division of Registry and Classification. Those are contained and carried in the legislative bill, as I understand it.

Mr. MADDEN. Yes.

SHIP, STEAMBOAT, AND WAY LETTERS.

The CHAIRMAN. The appropriation for ship, steamboat, and way letters is just the same?

Mr. MADDEN. Just the same.

PAYMENT OF LIMITED INDEMNITY.

The CHAIRMAN. And that is true also with reference to the limited indemnity?

Mr. MADDEN. Yes, sir.

Mr. FINLEY. Under what conditions do you give an indemnity?

Mr. MADDEN. Under the condition that it is mailed and receipted for in the registry division, is paid for at the first-class rate, and that it is mailed out and addressed to a United States post-office.

Mr. FINLEY. Does that apply to the work of the rural carriers who register mail?

Mr. MADDEN. Yes, sir.

Mr. FINLEY. That is, if a registered letter is placed in their hands it is the same as mailed at a post-office?

Mr. MADDEN. It is; also by the letter carrier at the door in the large cities.

Mr. FINLEY. What amounts are paid?

Mr. MADDEN. Twenty-five dollars is the limit on any one piece.

Mr. FINLEY. Those are the only conditions under which the indemnity is paid?

Mr. MADDEN. We pay for loss or rifling, but not for damage.

Mr. FINLEY. In the event you are unable to place the responsibility for the loss, then you pay?

Mr. MADDEN. Pay the sender or the owner, yes; sometimes the sender and sometimes the addressee.

TRAVELING AND MISCELLANEOUS EXPENSES.

The CHAIRMAN. The traveling expense account of your office has been allowed uniformly at a thousand dollars. For the last two years it has been very slightly drawn upon. Does that indicate that you think that is too high an allowance?

Mr. MADDEN. No; it indicates that we do not have the business to use it as we might have at any time.

EMPLOYMENT OF SPECIAL COUNSEL.

The CHAIRMAN. Mr. Madden, as to the item which has been carried from year to year for the employment of special counsel, I will say that I am in receipt of a letter from the Postmaster-General asking a reappropriation of that amount. Will you please tell the committee how much is yet remaining unexpended?

Mr. MADDEN. There remained at the close of the fiscal year \$5,362.68 unexpended.

The CHAIRMAN. What suits, if any, are undetermined and pending that are being cared for by that item?

Mr. MADDEN. There was one just concluded in the court of appeals

of Virginia known as the Wiener-Shipp case. There are several cases still pending.

The CHAIRMAN. You estimate a reappropriation of that sum without increase?

Mr. MADDEN. Yes, sir.

DESIGNATION OF EMPLOYEES TO SIGN WARRANTS, COLLECTION AND TRANSFER DRAFTS.

The CHAIRMAN. Under date of January 6, 1907, I am in receipt of a letter which I desire to put into the record at this time; but I will read it, and ask what you may have to say about it. (Reads:)

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 6, 1907.

MY DEAR SIR: I have the honor to submit the following draft of a paragraph which, if it meets your approval, I should be pleased to have incorporated in the pending post-office appropriation bill:

"That hereafter the Postmaster-General may from time to time designate any employee in the office of the Third Assistant Postmaster-General above the grade of a clerk of class E to sign warrants, collection and transfer drafts in his stead, and such warrants and drafts when so signed shall be of the same validity as if signed by the Postmaster-General."

Under the act of March 3, 1903 (sec. 6, ch. 1009), the Postmaster-General is authorized to designate any officer of the Post-Office Department above the grade of a clerk of class 4 to sign warrants, collection and transfer drafts in his stead. Under this authority 10 officers employed in various divisions of the Bureau of the Third Assistant Postmaster-General have been designated for that purpose, but only two of them are connected with the division of finance, where such warrants are drawn and issued.

The business has so increased that it requires from 1,000 to 1,800 signatures a day, and in order to establish a more business-like arrangement and secure greater facility of dispatch, as well as greater security, it is desired that authority of law be given for the designation of some clerk, or clerks, as well as officers above the grade of a clerkship, for the purpose of signing as the needs of the service may require; and it is desired to confine the authority to sign to the office where the warrants and drafts are issued. The present limitations to officers above the grade of clerk of the fourth class is disadvantageous in many respects. The time and attention of those officers, especially those not connected with the division where the warrants are issued, should be devoted wholly to their regular duties. The frequent calls upon them for signatures have resulted in embarrassment and delay to important work pertaining to the divisions with which they are connected.

Very respectfully,

GEO. B. CORTELYOU,
Postmaster-General.

Hon. JESSE OVERSTREET,
Chairman, the Committee on the Post-Office and Post-Roads,
House of Representatives, Washington, D. C.

Mr. MADDEN. It seems to me that that is complete; but I may say that in the finance division, where warrants are drawn, there have been great delays because the superintendent could not devote his time entirely to signing warrants, as it would take him more than a day to sign his name 1,800 times.

The CHAIRMAN. Briefly, what are those warrants?

Mr. MADDEN. For railway mail service, rural free delivery service, and all expenses for which this committee appropriates in the regular way, excepting those paid by the postmaster.

The CHAIRMAN. You speak of warrants and drafts. What are they?

Mr. MADDEN. They are small in number, and are drafts upon postmasters.

The CHAIRMAN. Do I understand that if this recommendation should be followed and this particular draft which is recommended should be adopted into law it would then leave the authority for the designation of clerks for signatures open, so that any number necessary for the purpose could be designated?

Mr. MADDEN. Yes, sir.

The CHAIRMAN. And that in such a case those designations would be made from the particular division where the warrants are issued?

Mr. MADDEN. Yes; it is the desire to do that.

The CHAIRMAN. Have you no authority now to designate more than you now have?

Mr. MADDEN. No; we must designate officers above the grade of fourth-class clerks. That takes at least a \$2,000 man or the superintendent.

The CHAIRMAN. Wouldn't this make such an opening that it would be entirely possible for you to have a low-grade clerk sign warrants, and is it advisable to have a low-grade clerk receive that authority?

Mr. MADDEN. The very purpose of it is to be able to designate some one clerk or clerks for that purpose, because the superintendent can employ himself to better advantage than the mere signing of warrants.

The CHAIRMAN. What is the compensation of clerks of class 3 and 4?

Mr. MADDEN. Class 4 is \$1,800, class 3 is \$1,600, class 2 \$1,400.

The CHAIRMAN. So that if it should be authorized, no designation could be made for a clerk below \$1,800 to sign a warrant?

Mr. MADDEN. Oh, yes; down to class E, which would be \$1,000.

The CHAIRMAN. Then a clerk receiving a thousand dollar compensation could be designated to sign important warrants?

Mr. MADDEN. Above that grade.

The CHAIRMAN. Then it would be \$1,100?

Mr. MADDEN. We have none at less than \$1,200. It would be a \$1,200 clerk.

The CHAIRMAN. Do you think it is advisable to grant authority for the designation of a clerk drawing no higher salary than \$1,200 to sign important warrants and drafts?

Mr. MADDEN. Yes, sir; I think it is, because there is not an officer who signs them who knows at the time whether they are correctly drawn or not.

The CHAIRMAN. It is a perfunctory matter.

Mr. MADDEN. Yes, sir.

The CHAIRMAN. Are those warrants carefully scrutinized by high officers?

Mr. MADDEN. They are scrutinized by those charged with the responsibility of drawing them. They are checked up by frequent checks, so that by the time they go out for signature there is hardly a possibility of error.

The CHAIRMAN. In the execution of the signature by the designated clerk, is his work initialed in any way so that it could be traced to the official who made the signature?

Mr. MADDEN. The signature would tell for itself.

The CHAIRMAN. I know; but supposing your signature was being executed by a clerk?

Mr. MADDEN. My signature is printed and signed for me by the clerk.

The CHAIRMAN. When the clerk signs, does he sign his own name?

Mr. MADDEN. His own name.

The CHAIRMAN. So that each warrant would show which particular designated clerk signed the warrant?

Mr. MADDEN. Yes, sir.

The CHAIRMAN. So that it is a matter easily to be traced in case of error?

Mr. MADDEN. Oh, yes.

Mr. STAFFORD. How many checks are placed on one of these warrants?

Mr. MADDEN. For instance, take a railway mail service item, a payment for service. The Second Assistant certifies first that the service has been performed, and it is then subjected to the Auditor's scrutiny to know whether the appropriation is available to pay it and receive the authority of the Auditor to issue the warrant. Then it is transferred to the Third Assistant Postmaster-General, who checks it again against the appropriation and issues the warrant and signs it. That is the formality worked out to issue a payment for a proper appropriation.

Mr. STAFFORD. Through how many different sets of clerks do these warrants go, or through how many different hands, before a warrant is completely executed?

Mr. MADDEN. First, in the Second Assistant's office, though I can not tell you exactly what process is followed there in order to authorize the payment, but it is then taken to the Auditor to establish the fact that it is payable according to the system adopted by the Auditor; in other words, it is audited before payment. It then goes to the Third Assistant Postmaster-General, after it has passed the Second Assistant and the Auditor, for issue, and there we keep track of the appropriations and the drawings against each appropriation. The warrant thus follows the authority. The signature of the Auditor is upon the warrant before it is executed in my office. After it is executed—I am not quite sure whether it is after or before—it is taken to the Treasury again, where the Assistant Treasurer signs the warrant.

The CHAIRMAN. Is the execution of the signature in your office the completion of the warrant?

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. Do all of these warrants, or only those that pertain to the railway mail service, go to the Second Assistant's office?

Mr. MADDEN. The warrants do not go near him.

Mr. STAFFORD. What paper does come from his office?

Mr. MADDEN. The certification comes from him; for instance, if the New York Central Railway Company is performing certain service and are entitled to certain compensation for that service, then the warrant will go through the process that I have described.

Mr. STAFFORD. There are other warrants issued than that for the railway mail service, and those warrants go through some other separate department similar to that of the Second Assistant Postmaster-General?

Mr. MADDEN. Yes. The rural free-delivery warrants largely go to the Fourth Assistant's office, they certifying that the service has been performed.

Mr. STAFFORD. Then the warrant goes through at least four different hands before it is finally issued?

Mr. MADDEN. Yes; there is every sort of check upon it.

Mr. SNAPP. After the proper officer, supposing it to be the Second Assistant, certifies that a service is performed and the amount due, to what officer then does the warrant go first?

Mr. MADDEN. It goes to the Third Assistant, who transmits it to the Auditor for audit prior to issue.

Mr. STAFFORD. There is no examination made by the Third Assistant before transmission to the Auditor?

Mr. MADDEN. I am a little in doubt about that. There may be, and I think there is. But I would not be competent to answer positively without inquiry.

Mr. STAFFORD. Why is it that you wish this authorization to extend to such a low-grade clerk as a \$1,200 clerk, when at present the graduation is at \$1,800 or \$2,000.

Mr. MADDEN. Well, the best answer I can make to that is that there is no sound reason why we should employ a high-grade man for that formal signature when a clerk can do it just as well.

The CHAIRMAN. What advantage is there in that signature over a signature written by somebody else?

Mr. MADDEN. Not much. I have frequently thought that my printed signature on a warrant, in view of all the checks, might be readily accepted.

The CHAIRMAN. Except that the signature by a designated clerk would afford a check as against whoever might get hold of one of the blanks.

Mr. MADDEN. But the Auditor's signature and the Treasurer's signature are required before the warrant can be paid.

The CHAIRMAN. It might be possible for some one to get hold of some of those warrants after it had passed every office excepting your own, and put the stamp on, without the check in your own office against the particular account.

Mr. MADDEN. Possibly.

The CHAIRMAN. So that a signature by pen is to a great extent a safeguard?

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. In the forwarding of the warrant, how would the officials know that the initials used were not made by some other person?

Mr. MADDEN. Initials are not used; it is a full name of the clerk, and the treasurer is always furnished with a sample of the signature, the true signature, with which to make comparisons.

Mr. STAFFORD. And the treasurer would be furnished with the signatures and the names of each one of the clerks especially delegated for this work before he would finally accept the warrant?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. How many clerks in the service would be eligible to this work?

Mr. MADDEN. Every one above a thousand-dollar grade would be eligible.

Mr. SNAPP. Approximately, what would be the number?

Mr. MADDEN. Do you mean what number would be necessary?

Mr. SNAPP. What would be the approximate number of clerks that could be authorized under this change, which you recommend, to sign warrants?

The CHAIRMAN. The number who could be authorized.

Mr. MADDEN. The Postmaster-General could, under that authority, designate every person in the Third Assistant's Bureau above the \$1,000 grade.

Mr. SNAPP. What I am trying to get at is approximately the number.

Mr. MADDEN. I can not give you the number without going to my office, because I would have to know how many above the grade of \$1,000 there are. I should say between 50 and 100.

The CHAIRMAN. And how many would probably be necessary to do the actual work, and how many would probably be designated to do it?

Mr. MADDEN. In all probability we would designate two or three persons.

The CHAIRMAN. How many are doing that work now?

Mr. MADDEN. Ten.

The CHAIRMAN. And there would be two or three more?

Mr. MADDEN. At present we designate ten persons for that reason; for instance, the special agents of the classification division, being employees at \$2,000 a year, are designated. Now and then the superintendent of finance walks in with a bunch of warrants for that official to sign, because he is authorized and his signature is on file in the Treasury Department. But he signs those, knowing no more about what he is signing than you would know if they were handed to you at this moment. We would like to do away with that and confine the signing to the division of warrants, where they are issued, and by some person who will know something about them.

The CHAIRMAN. Would these persons whom you would designate under this new authority be devoted exclusively to the work of signing warrants?

Mr. MADDEN. Probably they would.

The CHAIRMAN. So that the signatures would all be executed by two or three clerks?

Mr. MADDEN. Two or three clerks; yes.

The CHAIRMAN. And the practice would be, if this authority were granted, to discontinue the present method of having ten people who could be called upon in connection with other duties to sign the warrants and confine it to two or three designated clerks?

Mr. MADDEN. That is the proposition; yes.

The CHAIRMAN. And the authority which now rest upon these ten to render this work would be withdrawn?

Mr. MADDEN. Yes, sir.

The CHAIRMAN. And the Treasury Department would be notified of that action and given the signatures and names of the two or three clerks who would be designated for that purpose?

Mr. MADDEN. Excepting this, that we must always have some additional for emergency cases; for instance, if we designate three clerks, one or two of them may be off on leave and the third may be taken sick.

The CHAIRMAN. So then you would probably designate two or three more than those that would be absolutely necessary to simply provide for that emergency?

Mr. MADDEN. To provide for situations that might arise. You understand that it takes a long time to sign a thousand warrants.

Mr. SNAPP. How long does it take a man to do that? How much of a day's work is it?

Mr. MADDEN. When I came to the office of Third Assistant it was the practice to require the Third Assistant Postmaster-General to sign all warrants above \$1,000, and I frequently had a bunch of warrants four inches thick on my desk. It would take me two or three hours, and sometimes the work would run into the next day, interfering with all other business while I was signing warrants. And I did not know any more than you would know about whether they were correctly drawn or not. To sign a thousand times I should say it would take a clerk more than his full quota of hours a day, as they have to blot every signature, and it must be accurately done.

The CHAIRMAN. Approximately how many signatures, on an average, are required daily?

Mr. MADDEN. There are from 1,000 to 1,800 a day.

The CHAIRMAN. That is about the approximate daily average?

Mr. MADDEN. It varies, but seldom or never falls below a thousand, and seldom or never rises above 1,800 at present; but it is increasing all the time.

POSTAGE-STAMP CONTRACT.

Mr. SNAPP. I understood you to say that the specifications for adhesive postage stamps were originally prepared in your office.

Mr. MADDEN. Yes, sir.

Mr. SNAPP. To whom do they go from your office?

Mr. MADDEN. They are sent to the purchasing agent.

Mr. SNAPP. What are his duties in connection with the specifications?

Mr. MADDEN. According to the regulations he is required to review those specifications—to criticise them, you might say—to improve them, make suggestions, and if he differs from the Third Assistant in any particular he states the circumstances, and an effort is made to agree as to what would be best under that particular item.

Mr. SNAPP. Was that course of procedure followed in the preparation of the specifications for the printing of stamps for the ensuing four years?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. Did the purchasing agent suggest any changes from the specifications in this particular case?

Mr. MADDEN. I can not recall in that particular case. As a matter of fact, it might be that he did not find any fault with the specifications in that case, if I recall now.

Mr. SNAPP. That is the only case I am inquiring about, and you do not recall any?

Mr. MADDEN. I do not recall any in that case. I do recall those in connection with the stamped envelopes.

Mr. SNAPP. Then is it the duty of the purchasing agent to advertise for proposals under those specifications?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. And no doubt he did that in this case?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. Do you know whether, after the advertisements were made, that it was abandoned and a subsequent advertisement made?

Mr. MADDEN. Yes, sir; it was.

Mr. SNAPP. What was the reason for that?

Mr. MADDEN. Without being positive, I will say that it strikes me that the reason was that the persons wishing to compete found that the advertisements did not give them ample time to prepare, and therefore in order that they should have ample time to prepare the original advertisement was recalled and another placed.

Mr. SNAPP. Do you know whether, after the original advertisement was recalled, any changes were made either in your office or by the purchasing agent in the specifications?

Mr. MADDEN. I think there were some slight changes.

Mr. SNAPP. In whose office?

Mr. MADDEN. I can not answer. They were not very material changes.

Mr. SNAPP. Do you know whether any bids have been received under the first advertisement?

Mr. MADDEN. There was none that I know of.

Mr. SNAPP. Can you say why the changes were made in the specifications after the withdrawal of the first advertisement?

Mr. MADDEN. Why, because having further light, we thought it would better the situation, or make it simpler to bid upon, or something of that kind.

Mr. SNAPP. Will you indicate, if you can, to the committee the source of the light that was obtained and which permitted the change of the specifications?

Mr. MADDEN. As I recall it, the American Bank Note Company sent a representative to the Department to complain that the advertisement, if followed, would not give them time to make a proper bid, and they pleaded for a greater time. That was the cause of the recall of the first advertisement and placing the second. And on the call of that representative we suggested that there were some things in the specifications which would make it difficult for him to bid, and I told him, as nearly as I can recall, that if he had any suggestions to make he should make them in writing, which he did. I turned the matter over then to my representative who conferred with the purchasing agent and adjusted the matter. They were simple and not difficult of adjustment, and I think mostly were agreed to, because it seemed to open the contract to greater competition.

Mr. SNAPP. If there was such a suggestion from the American Bank Note Company it would be on file in your office, would it not?

Mr. MADDEN. It might or it might be with the purchasing agent, according to whether it was referred there or not.

Mr. SNAPP. Will you examine to see whether it is on file in your office, and if it is, furnish a copy for the record?

Mr. MADDEN. I will.

Mr. SNAPP. What was the purpose of advertising for bids?

Mr. MADDEN. To get competition; to invite competition.

Mr. SNAPP. What was the purpose of inviting competition?

Mr. MADDEN. To get the lowest possible prices.

Mr. SNAPP. Do you think it was the purpose in inviting competition for this contract to finally let the contract to the lowest responsible bidder?

Mr. MADDEN. I can not venture any opinion about that, because it was the Postmaster-General's decision, and he gave his reasons for it.

Mr. SNAPP. I am going to get to that. Originally, do you think, Mr. Madden, that the purpose of advertising for proposals for this contract was for the purpose of securing to the Government the lowest possible price for the work?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. Do you think the original purpose then was to let this contract to the lowest responsible bidder?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. Have you ever seen the bids for this contract?

Mr. MADDEN. No, sir.

Mr. SNAPP. Do you know who the lowest bidder was?

Mr. MADDEN. I believe the American Bank Note Company, on the face of things, was the lowest bidder.

Mr. SNAPP. Will you not please explain what you mean by "on the face of things?"

Mr. MADDEN. As I recall, the memorandum of the Postmaster-General discloses that the difference in the bid was not sufficiently great to cause him to take the contract from the American Bank Note Company; in other words, there was not a sufficient reduction in the cost; that it still remained in the interest of the Government to let the contract to the Treasury Department.

Mr. SNAPP. Yes, I understand; I have seen his reasons for it. When the contract for the four-year period, which has just expired, was let, was it done through your office?

Mr. MADDEN. Yes, sir; that was before there was a purchasing agent.

Mr. SNAPP. You issued the specifications, advertised for the bids, and let the contract?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. Have you with you a copy of those bids?

Mr. MADDEN. No, sir.

Mr. SNAPP. I wish you would look at the letter I hand you and see if you can identify it as your letter to me of January 15, 1904, showing the bids of the different bidders for the contract of the last four years and the previous contract period of four years [handing letter to Mr. Madden].

Mr. MADDEN. Yes; I remember this letter.

(Following is the letter referred to):

POST-OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER-GENERAL,
Washington, January 15, 1904.

Hon. H. M. SNAPP,
House of Representatives.

SIR: This office is in receipt of your communication of the 13th instant requesting to be furnished; first, the names of all parties, corporations, or Departments of the Government who bid upon the Government contract for furnishing stamps for the current four years; second, the amount of the bid of the different parties for the different denominations of the stamps required by the Government, and third, the same information covering the four preceding years.

In reply, I have the honor to inform you that the names of the bidders for furnishing stamps for the current four years (1902-1906) are The American Bank Note Company, New York, N. Y., and Treasury Department (Bureau of Engraving and Printing).

The amounts bid for the different kinds of the stamps were as follows:

[Price per 1,000.]

	Bureau of En- graving and Printing.	Ameri- can Bank Note Com- pany.
Ordinary stamps for use of the public.....	\$0.05742	\$0.057
Postage due stamps.....	.07756	.065
Special-delivery stamps.....	.15505	.12
Books of stamps (exclusive of the stamps bound therein, which are included in the first item above):		
12-stamp size.....	2.8242	3.60
24-stamp size.....	3.4520	4.25
48-stamp size.....	4.4608	5.40

The bids were based upon the total number of stamps of all kinds estimated to be required within the four-year term of the contract. A computation of the figures shows that, in the aggregate, the bid of the Bureau of Engraving and Printing was \$12,203.65 lower than the bid of the American Bank Note Company.

The names of the bidders for furnishing stamps for the four preceding years (1898-1902) are The American Bank Note Company, New York, N. Y., and Treasury Department (Bureau of Engraving and Printing).

The amounts bid for the different kinds of stamps were as follows:

[Price per 1,000.]

	Bureau of En- graving and Printing.	Ameri- can Bank Note Com- pany.
Ordinary stamps.....	\$0.05	\$0.056
Special-delivery stamps.....	.114	.066
Postage-due stamps.....	.065	.056
Newspaper and periodical stamps.....	.114	.056

Respectfully,

EDWIN C. MADDEN,
Third Assistant Postmaster-General.

Mr. SNAPP. Do you remember that I asked you in the hearings before this committee, while considering the appropriation bill for the fiscal year 1907, if the only difference in favor of the Bureau of Engraving and Printing in this bid was in the matter of the "Madden" book of stamps and your saying that it was?

Mr. MADDEN. I think that is correct; yes; or on the items pertaining to the Madden book of stamps.

Mr. STAFFORD. That is on the prior contract?

Mr. MADDEN. One that just terminated; yes.

Mr. SNAPP. I notice in your report for the year ending June 30, 1906, that you say: "During that year the profits on the books of stamps were \$103,233.56."

Mr. MADDEN. Yes, sir.

Mr. SNAPP. Will you say, if you can, how many books of stamps were issued and used for that year?

Mr. MADDEN. It is in the report.

Mr. SNAPP. Well, I want it in the record and I can not get my eye on it from the report. I know it is there somewhere.

Mr. MADDEN. For the year 1906 there were 14,874,510 books issued.

Mr. SNAPP. Have you made any estimate of what the probable number would be for the next fiscal year?

Mr. MADDEN. Yes; that is the basis of the specifications for a new contract.

Mr. SNAPP. What is that number?

Mr. MADDEN. The number of books of stamps issued was 14,874,510, the cost to the Department being \$45,511.54, or \$3.0597 per 1,000 books. The increase over the previous year was 18.47 per cent and 20 per cent is estimated as the increase for the next two years.

Mr. SNAPP. Did I understand you to say that you were not familiar with the bids for the new contracts?

Mr. MADDEN. Yes, sir; except in a general way. I understood the difference in the bids was something like \$117,000.

Mr. SNAPP. On the whole contract?

Mr. MADDEN. Well, I can not say as to whether that was for a year or on the whole contract, but I think it was on the whole contract.

Mr. SNAPP. The reason I ask is this, that on page 45 of your report for the fiscal year ending June 30, 1906, you say:

The profit is certain to be greater during the next four years because of the lower prices to be charged for the manufacture of these books under the new contract beginning February 1 next.

Mr. MADDEN. Yes, sir.

Mr. SNAPP. Now, you must have had some general information as to the amount of this new bid on which to base that statement?

Mr. MADDEN. Yes; I remember in writing that that I made inquiry as to what the cost would be under the new contract, in order that that statement might be accurate.

Mr. SNAPP. It appears from information that I have that the bid of the American Bank Note Company for the books of stamps of the 12-stamp size was \$2 per 1,000, and of the Bureau of Engraving and Printing for the same \$2.49 per 1,000; for the 24-stamp size the bid of the American Bank Note Company was \$2.50 per 1,000, and the bid of the Bureau of Engraving and Printing \$3.24 per 1,000; and for the 48-stamp size the bid of the American Bank Note Company was \$3.50 per 1,000, and that of the Bureau of Engraving and Printing \$4.11 per 1,000.

Can you furnish the committee with the amount of profit there would be to the Government on this contract for the printing of books and stamps if the bid of the American Bank Note Company were accepted rather than the bid of the Bureau of Engraving and Printing?

Mr. MADDEN. I can make an estimate; yes.

Mr. SNAPP. Will you do that and furnish it to the committee?

Mr. MADDEN. Yes; certainly.

Mr. SNAPP. You have reported the profit on the books and stamps under the old contract?

Mr. MADDEN. Yes, sir.

Mr. SNAPP. That, of course, was based upon the old bid.

Mr. MADDEN. Yes, sir.

POST-OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER-GENERAL,
Washington, January 15, 1907.

Hon. JESSE OVERSTREET,
Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.

DEAR SIR: In response to the request made yesterday by Representative Snapp, I have the honor to give you below (1) an estimate of the profit on stamp books during the term of the contract awarded the Bureau of Engraving and Printing for the four years beginning February 1, 1907; also (2) an estimate of what the profit would have been at the prices contained in the proposal of the American Bank Note Company:

Estimated number of stamp books.	(1) Price bid by Bureau of Engraving and Printing.		(2) Price bid by American Bank Note Co.	
	Per 1,000.	Amount.	Per 1,000.	Amount.
54,443,000 of 12 stamps.....	\$2.49	\$135,563.07	\$2.00	\$108,886.00
14,652,000 of 24 stamps.....	3.24	47,472.48	2.50	36,630.00
5,053,000 of 48 stamps.....	4.11	20,767.83	3.50	17,685.50
Total for the books.....		203,803.38		163,201.50
Add cost of 1,247,508,000 stamps in the books.....	.057	71,107.96	.055	68,612.94
Total cost of manufacture.....		274,911.33		231,814.44
To be deducted from selling price of 74,148,000 stamp books over value of stamps therein, at 1 cent per book.....		741,480.00		741,480.00
Profit to Post-Office Department.....		466,568.67		509,665.56
Increase of profit at the prices proposed by American Bank Note Co.....				43,096.89

Of course it is not possible to foretell absolutely what the public demand for stamp books will be in the future, but the foregoing estimate is based on the quantities issued in the last fiscal year, with an allowance for probable increase which experience indicates to be reasonable.

Very respectfully,

EDWIN C. MADDEN,
Third Assistant Postmaster-General.

Mr. SNAPP. Now, both of these bidders have bid again on this contract for the printing of books and stamps, the bid of the American Bank Note Company being considerably less than the bid of the Bureau of Engraving and Printing. What I desire to have appear in the record is this: What would be the additional profit to the Government on the contract for the printing of these books and stamps under the bid of the American Bank Note Company over that of the bid of the Bureau of Engraving and Printing?

Mr. MADDEN. Well, I will furnish you that.

Mr. SNAPP. Do you know whether or not the bid of the Bureau of Engraving and Printing for the printing of all these stamps under this item for the ensuing contract period of four years is lower than the bid of the American Bank Note Company on any item?

Mr. MADDEN. I do not know, not having seen the bid.

Mr. SNAPP. The Postmaster-General in his annual report states that the difference between these two bids for the period of four years would be something like \$117,000, in round numbers, in favor of the bid of the American Bank Note Company. Was that estimate prepared in your office?

Mr. MADDEN. No, sir; not that I know of.

Mr. STAFFORD. Can you furnish to the committee an estimate of the

profit that will accrue to the Government on the sale of these books of stamps at the rate that the Bureau of Engraving and Printing places their printing in the new contract?

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. If this contract should have been let to a private company, such as the American Bank Note Company, would there have been any additional expense entailed to properly supervise the manufacture?

Mr. MADDEN. I should say yes, quite a little.

Mr. STAFFORD. Can you give offhand any estimate, or after consideration of the subject, make an estimate of the cost of that supervision?

Mr. MADDEN. It would be a difficult thing to do; but I should say that he would have to be present at the manufactory, because stamps are Government securities, and we would have to so safeguard their handling as to be sure to prevent leakages.

Mr. STAFFORD. The stamps being in the nature more or less of currency, it would require strict surveillance to protect the Government's interests?

Mr. MADDEN. What that would be I would be unable to state, offhand.

Mr. SNAPP. Mr. Madden, you said that you would furnish to this committee the profits on the printing of the stamps as estimated by the Bureau of Engraving and Printing. Are you able to do that without knowing the cost to the Government of the printing of these stamps?

Mr. MADDEN. I would simply take their figures.

Mr. SNAPP. Then, really you are only able to give to the committee, in compliance with Mr. Stafford's suggestion, the apparent profit that will accrue to the Post-Office Department by the acceptance of the bids of the Bureau of Engraving and Printing?

Mr. MADDEN. Yes; and we have the word of the Bureau of Engraving and Printing that it covers all cost of production.

Mr. SNAPP. In what form have you the word of the Bureau of Engraving and Printing to that effect?

Mr. MADDEN. A letter from either the Secretary of the Treasury or directly from the Bureau of Engraving and Printing, stated that the bid for stamp books covers every cost concerning that production.

Mr. SNAPP. Is that letter on file in your Department?

Mr. MADDEN. I believe it is.

Mr. SNAPP. Will you furnish to the committee a copy of that, so that it may go into the record?

Mr. MADDEN. I will.

(Letter at the close of Mr. Cochran's testimony.)

Mr. STAFFORD. Has the Bureau of Engraving and Printing or the Treasury Department furnished your office any statement as to whether their contract price as to other than the books of stamps is within all the cost to the Government for such service?

Mr. MADDEN. Not that I know of.

The CHAIRMAN. What is the date upon which the new contract begins?

Mr. MADDEN. If I am correct, February 1.

The CHAIRMAN. It has not yet gone into force then?

Mr. MADDEN. No, sir.

LETTER POSTAGE.

Mr. FINLEY. On page 47 of your report you make some recommendations: First, as to the rate of postage upon letters not exceeding 1 ounce and deposited in post-offices for local delivery, and that they shall be sent at the 1-cent rate. At present, if my recollection is correct, where you have free delivery you require a 2-cent rate.

Mr. MADDEN. Yes, sir.

Mr. FINLEY. To what extent will this recommendation, if carried out, affect the revenue?

Mr. MADDEN. I don't know.

Mr. FINLEY. Mr. Madden, is not that rather important matter?

Mr. MADDEN. It is; but we never can tell the exact cost of any particular line of service; that is, we have not been able to tell so far.

Mr. FINLEY. What would you say as to a comparison of the mail in a State like New York, where the delivery is to be local, with mail which was to go outside of the city?

Mr. MADDEN. I made the recommendation because I deemed it to be eminently fair to the patrons of the postal service that they should not be charged 2 cents for every letter that does not have to go out of the post-office into the mail service of the country and be distributed at two offices.

Mr. FINLEY. I am not questioning the fairness of your recommendation, but I would like to know what information, if any, you can give the subcommittee as to how much the revenues would be reduced if this recommendation should be enacted into law?

Mr. MADDEN. I can not tell you.

Mr. FINLEY. Can you make any estimate as to whether the local mail in cities having city delivery would be as much as one-third of the total?

Mr. MADDEN. No, sir; I could not say. I could not give you an estimate, for I have no basis for it.

Mr. FINLEY. Can you say as to whether it is one-half?

Mr. MADDEN. I could not give a reliable estimate as to that, because it would require inquiry at every office in order to get the average amount deposited for local delivery.

Mr. FINLEY. It would seem to be an important proposition.

Mr. MADDEN. The rates of postage are established more or less without regard to their effect upon the revenue.

Mr. FINLEY. I am sure of that; but we have placed before us by the public, and by the public officials, including the Post-Office Department, the question of the deficit every year. What I would like to know is, if this recommendation of yours is carried out can you give any information as to how much the revenues will be effected and the deficit increased?

Mr. MADDEN. I have no reliable basis for an estimate.

Mr. FINLEY. If you think that this proposal is one of such eminent fairness, and so much is due to the public, do you feel that this committee should go on and act without knowledge on that point?

Mr. MADDEN. Yes, sir.

Mr. FINLEY. You think so?

Mr. MADDEN. Yes, sir.

Mr. FINLEY. No matter how much the revenue may be affected?

Mr. MADDEN. Yes, sir; it is enough for the service.

Mr. STAFFORD. Your recommendation is based upon the fact that the 2-cent rate charged for transit mail within the office of delivery is out of all proportion to the cost to the Government, and that the service could well be performed at 1 cent per ounce and still result in profit to the Government?

Mr. MADDEN. Yes, sir; a profit on that particular class.

Mr. STAFFORD. On first-class matter for local delivery; and that it is not fair to charge the public an excess rate for a service that can be performed at a much less rate?

Mr. MADDEN. And must be performed at a much less rate, because it is for local delivery and is merely distributed and taken right out; whereas a letter deposited in Washington for delivery in the city of New York must not only be distributed by the mail distributors but must be redistributed again in New York to the carriers, so that there are several handlings that do not apply to the local mail.

Mr. STAFFORD. Will you state any difference in rates as at present in force pertaining to local delivery alone?

Mr. MADDEN. There is none excepting the drop-letter rate, which does not include letter-carrier delivery.

Mr. STAFFORD. What is that rate?

Mr. MADDEN. A cent apiece.

Mr. STAFFORD. A cent for not exceeding 1 ounce, even if the letter is sealed?

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. However, you can deposit printed mail in the form of a letter at the 1-cent-a-pound rate, provided it is not sealed.

Mr. MADDEN. Yes; the difference in the rate is on the printed matter—2 ounces for a cent, and the letter rate is 1 ounce for 2 cents.

Mr. STAFFORD. Your recommendation embodies the application of the zone system so far as offices of deposit are concerned?

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. Would there be any difficulty of administration in having a 1-cent rate applied to first-class mail for delivery in the locality of the office of deposit and a 2-cent rate, as at present, for delivery without the bounds of the local office?

Mr. MADDEN. The only difficulty would be as to that portion of the matter which would be required to be forwarded to a new address. For instance, a man is addressed in Washington and the letter deposited in Washington, and he might move to New York, and the carrier, ascertaining that fact, would be required to forward the letter. The Government then would collect the postage due at the letter rate.

Mr. FINLEY. On that point would we not have this trouble also: That people in the city would become accustomed to the local rate of 1 cent, and that they would place a large number of letters in the mail addressed to persons outside of the city limits? That postage would carry the letter, of course, to its destination, but at the destination would there not be the trouble that the addressee would be called upon to furnish the deficiency in postage?

Mr. MADDEN. I don't think that could possibly exist to any extent. If it should be from a firm or person mailing a quantity of letters, who were seeking to take advantage of that for the mere saving, it would so discredit them that it would not be possible, it seems to me.

Mr. FINLEY. Would not the unit cost of handling a letter in Washington mailed here and addressed to a person in Washington, consid-

ering the cost of the carrier service, be a greater cost to the Government than upon a letter mailed in Washington to a person living in Laurel, Md., say, where there was no carrier service?

Mr. MADDEN. I am not prepared to state, but I don't think so.

Mr. FINLEY. Can you explain why?

Mr. MADDEN. Because it requires the same clerical service, if not more, in the Washington post-office to handle it. It requires, first, the taking up, then the cancellation, the distribution to the mail pouch, the transportation to the depot, the transportation in the mail train to Laurel, Md., the transportation from the depot to the post-office at Laurel, and the opening up there by the clerical force, and the distribution in the boxes.

Mr. FINLEY. Isn't it true that your recommendation here is one which is based upon the proposition that only the zone principle is involved?

Mr. MADDEN. Substantially, it is the zone principle.

Mr. FINLEY. When this decrease was made upon drop letters in places having city delivery and also places having no city delivery, was it not on the theory that the increased cost to the Government for the city carriers' service should be considered?

Mr. MADDEN. I don't know about that.

Mr. FINLEY. If that is not true, can you give any reason why the distinction was made?

Mr. MADDEN. I can not. I am not informed as to the reasons Congress had for enacting that provision.

Mr. STAFFORD. In case of local delivery of a letter at an office of deposit there would only be one separation required?

Mr. MADDEN. That is all.

Mr. STAFFORD. Whereas there might be, if it were carried to a point for delivery other than the place of deposit, several separations, and several on the mail trains, depending upon the distance, and another one at the office of delivery.

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. And the cost of separation is quite a large item in the cost of service.

Mr. MADDEN. Yes, sir.

USE OF POSTAGE STAMPS INTERCHANGEABLY WITH SPECIAL-DELIVERY STAMPS.

Mr. STAFFORD. You make a further recommendation that ordinary postage stamps should be used interchangeably with special-delivery stamps when a sender wishes to have a letter carried under the special-delivery privilege.

Mr. MADDEN. Yes, sir.

Mr. STAFFORD. Will you state the advantages that would accrue from such a change, and the reasons for your recommendation?

Mr. MADDEN. The advantages are wholly with the public. It would appear to make little difference in the cost of the service to the Government; in other words, we could accept ordinary stamps the same as we can special-delivery stamps. The advantage to the public would be in this: that few people keep special-delivery stamps on hand, and emergencies in every-day life are such that everyone knows that if there is a need for a special-delivery stamp it may be hours before it can be secured

at a post-office or a hotel. Probably you have all had that experience in connection with your desire to mail a letter which shall have immediate delivery at the point of address. Everybody can get hold of 2-cent stamps, because everybody who is up-to-date carries a Madden stamp book. If you can put on five 2-cent stamps and mark the letter "special delivery" we would get just as much revenue for the service, and there is the greater convenience that it does not necessitate a trip to the post-office on the part of the person desiring the service or to have to make a search for the stamps.

Mr. STAFFORD. Would that system bring to the attention of the postal clerks, or those who have the separation of these special-delivery letters or parcels in their charge, the importance of each of those letters or parcels the same as if a distinct character of stamp were affixed?

Mr. MADDEN. Yes, sir; because I assume that the Postmaster-General would be granted authority to make regulations for the use of these stamps, and particularly the regulation that the person desiring that particular service should designate it by the letters "S. D." or the words "Special delivery."

Mr. STAFFORD. If in any case it would not be brought to the attention of the distributors, because of the sender not making his desire sufficiently prominent, it would not result in any loss to the Government, but simply to the sender through his own neglect?

Mr. MADDEN. However, the presence of so many stamps additional over the postage rate would signify something to any clerk, and he would look more carefully for the distinction as to whether it was a special-delivery letter or not than he ordinarily would.

Mr. STAFFORD. There would be no additional cost entailed by reason of granting this privilege over the present system of having a distinct stamp?

Mr. MADDEN. About the only thing I can conceive of at this time would be an additional book of record at the office of delivery for recording those letters which come under the special-delivery stamp and those of the ordinary stamp, so as to separate them.

Mr. STAFFORD. Why would that be necessary?

Mr. MADDEN. In order to make sure of the actual deliveries, we now estimate them upon the number of stamps used, but it would be necessary to get a report from the postmasters of the actual deliveries, because we pay for that service.

Mr. STAFFORD. That would be simply a matter of bookkeeping for the purpose of estimating the funds necessary to provide for the pay in special delivery cases?

Mr. MADDEN. Simply accounting for the revenues and expenses.

Mr. STAFFORD. If an estimate could be obtained in some other way that record would not necessarily have to be made?

Mr. MADDEN. Probably not, but I think it would be a very simple matter.

Mr. STAFFORD. There is no special stamp needed, so far as the registering of letters is concerned—no special stamps are appended for that service—so you do not see why a like privilege should not be granted for special delivery letters?

Mr. MADDEN. No, I do not; I think it should be.

Mr. FINLEY. With reference to "due" letters, on which is due one or more stamps, is it necessary to have the addressee buy a special stamp to put on that letter in order to protect the interests of the

Government, and if not, what good purpose is subserved by that practice?

Mr. MADDEN. I think there has been some change in that lately. If you deposit a letter or a sealed package in the Washington post-office with 2 cents paid upon it, it is required that we shall forward that letter to destination and any deficit postage collected at the office of delivery, and the postmaster will, before delivering the letter or package, attach a "postage-due" stamp to the package or letter and collect the amount from the addressee.

The CHAIRMAN. That amount collected may be in copper cents; you do not require the addressee to buy a stamp, do you?

Mr. MADDEN. Not at all, any money; in other words, practically the postmaster sells the stamps in that way.

The CHAIRMAN. If the carrier brings that letter to my door and calls my attention to the fact that there is due 2 cents, and I deliver him two copper cents, you have the evidence of that in the postage-due stamp; what does the carrier do with that two cents?

Mr. MADDEN. He returns it to the post-office because he is charged with it.

The CHAIRMAN. But he does not cancel postage?

Mr. MADDEN. He cancels the stamp before it is taken out.

The CHAIRMAN. The postage-due stamp?

Mr. MADDEN. Yes.

The CHAIRMAN. Is it a stamp that is adhesive?

Mr. MADDEN. Yes.

The CHAIRMAN. That is the stamp which he really sells for 2 cents?

Mr. MADDEN. Yes; sells it in advance.

The CHAIRMAN. That 2 cents is credited to his account of canceled stamps?

Mr. MADDEN. Yes.

Mr. FINLEY. Why not allow me to attach any stamp that I may happen to have in my pocket, a stamp out of the Madden stamp book, for instance? Why put me to the trouble of pulling out a dollar or five dollars and having it changed—

The CHAIRMAN. Are you not permitted to do that now?

Mr. MADDEN. I think in practice that is permitted.

Mr. FINLEY. That is not the practice in my country.

Mr. STAFFORD. Letter carriers are not allowed to sell any stamps?

Mr. MADDEN. Yes; I think so. One reason is that the Post-Office Department has found in experience that it can not accept stamps as money; it can not exchange stamps.

Mr. FINLEY. But when a stamp is due on a letter addressed to me, and I have a book of stamps in my pocket, and I owe the Government a 2-cent stamp, why not allow me to attach that 2-cent stamp?

Mr. MADDEN. That goes back of my time. This is an old established practice and personally at this moment I see no reason why you should not be allowed to do that.

Mr. FINLEY. That is what I wanted to get at. It takes time, you have to have some money changed, and I do not see the necessity for it.

Mr. MADDEN. It would mean this, that the person to whom the letter is addressed must know that they are being required to pay something which the sender did not pay, and the postage-due stamp is evidence of that. Now to accept a 2-cent stamp in exchange for that

postage-due stamp, if that is your proposition, the carrier must be provided with some way of taking care of the stamps, their redemption at the post-office, and resell them to the public, so it is the acceptance of stamps as money.

Mr. FINLEY. I know at my home when I go to my box at the post-office to get my mail there may be one or two letters on which there is due 2 cents. It is so marked. I have to wait until the office is open and then transact my business, and probably have some money changed in order to pay 1 or 2 or 3 cents, or whatever it is that is due. It is really a nuisance.

Mr. MADDEN. You would have to pay something.

Mr. FINLEY. But why not allow me to pay a regular 2-cent stamp?

Mr. MADDEN. As I said before, I see no reason.

Mr. STAFFORD. Did you say that the letter would be withheld until the payment was made?

Mr. MADDEN. Certainly.

Mr. STAFFORD. The letter would be withheld until payment was made either in coin or in postage stamps?

Mr. FINLEY. A due stamp is something that I do not keep, and I can not buy them at the offices. Time would be saved during which I would have to hand out some money, wait for the change, and all that.

Mr. MADDEN. That is all that would be saved.

Mr. FINLEY. But that is considerable.

Adjourned at 12.30 p. m.

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Monday, January 14, 1907—1.30 o'clock p. m.

AFTER RECESS.

STATEMENT OF HON. P. V. DE GRAW, FOURTH ASSISTANT POST-MASTER-GENERAL.

(Mr. DeGraw was accompanied by William R. Spilman, superintendent of the division of rural delivery; Richard P. Covert, superintendent of the division of supplies; and William E. Cochran, purchasing agent of the Post-Office Department.)

The CHAIRMAN. The committee has Mr. DeGraw, the Fourth Assistant Postmaster-General, before it, and will now take up the items pertaining to the Fourth Assistant's office, beginning on page 40 of the skeleton bill.

STATIONERY.

Mr. DeGraw, the item for stationery account you estimate for the fiscal year 1908 the same as for 1907. Can you inform the committee of the status of this account at this time? Does that fall directly under you, or is that a part of the supplies that fall under the purchasing agent?

Mr. DEGRAW. That is entirely under my bureau.

The CHAIRMAN. That is what I understood.

Mr. DEGRAW. If you will permit me, Mr. Chairman, before we proceed, I would like to make one statement to you. That is, in the reorganization of the supply division we were unable up to about two months ago to find the people whom we thought were the proper persons to take up the details of that work; and while the reorganization was ordered, you will remember, last year, we did not get completely reorganized on the basis on which we wanted to operate that division until two months ago. Hence, in going through the details of the supply division, we have found it possible to make an aggregate reduction in the estimates originally submitted to you of \$10,500.

I just wanted to preface what I have to say with that statement, so that you will understand, as we reach the specific items, that there is an aggregate reduction of \$10,500.

The CHAIRMAN. What change, if any, do you suggest with reference to the item for stationery, now estimated at \$85,000?

Mr. DEGRAW. We would respectfully request that that appropriation be made \$105,000 instead of \$85,000, an increase of \$20,000.

The CHAIRMAN. Upon what do you base the estimate of an increase of \$20,000 over the appropriation for the current year for stationery alone?

Mr. DEGRAW. The necessity for the increase, Mr. Chairman, arises from the natural growth of the service and the increased demands of postmasters.

The CHAIRMAN. You expended last year \$64,930.08. For the fiscal year 1905 you expended \$64,991.32. Do you think that the growth of the service for the next year will justify so heavy an increase, in view of the expenditures for the last two years?

Mr. DEGRAW. Unquestionably, in the stationery account.

The CHAIRMAN. Why? What has occurred during this last year that would indicate an increase of 25 per cent, when in former years the increase has been a much less per cent?

Mr. DEGRAW. First of all, we find that the postmasters have not been given fair consideration in the receipt of supplies which, in our judgment, their offices required. That accounts largely for this increase; and in the current appropriation bill the increase over 1905 will be largely taken up by the supplying of the General Superintendent of the Railway Mail Service, mail equipment, and the money-order offices. Those branches are requiring more from us, and feel that they should have greater consideration than has been given heretofore.

The CHAIRMAN. Has the growth of the service in the past year indicated that you will need a 25 per cent increase in supplies?

Mr. DEGRAW. That is the way we figure it, sir.

The CHAIRMAN. That is what I am trying to ascertain.

Mr. DEGRAW. We have had to sum that up, of course, from the requisitions on file. We have many requisitions there that we have been unable to fill.

The CHAIRMAN. Have you scrutinized those requisitions sufficiently to learn, if possible, whether or not the postmasters are exercising proper care in their requisitions?

Mr. DEGRAW. Yes, sir; we have, and in order to simplify the matter we have gotten out a simplified list of orders, where the postmasters—

The CHAIRMAN. I want to modify my question. I said "25 per cent." It will be a 60 per cent increase as compared with the expenditures. If we should allow you \$105,000 for this item for 1908 it will be a 60 per cent increase over the expenditures for 1906. Can you justify an increase of 60 per cent in the expenditure for stationery based entirely upon the needs of the service, or is it upon simply the requisitions of postmasters?

Mr. DEGRAW. It is based upon both, Mr. Chairman. On July 1, 1905, there were 1,534 offices of the first and second class. On July 1, 1906, there were 1,598 offices of the first and second class. There has been an increase in the past six months in some items of stationery equal to the quantity purchased during all of the last fiscal year.

The CHAIRMAN. Supposing that there was not a blank envelope or a blank sheet of paper in any one of those offices. Would it necessitate an increase of 60 per cent over the expenditures of the preceding year? I do not see how you can justify it, in view of the expenditures.

Mr. DEGRAW. The fact that the expenditures did not reach what we term now, in looking back over those old requisitions, the requirements of the offices, what we feel we should grant the offices in the matter of good business policy—

The CHAIRMAN. How much did you estimate for the item of stationery for the current fiscal year?

Mr. DEGRAW. Eighty-five thousand dollars.

The CHAIRMAN. And Congress granted all of it?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. And now you say that you have not given these postmasters the quantity that they deserved. Why did you not ask for more last year?

Mr. DEGRAW. You will remember the mix that we were in in the supply division last year, when it came from three or four different bureaus. We told you very frankly that we were not prepared to give you any specific statement, because we had not had any experience in it, and the best that we could do was to take up the experience of these several divisions, which came from several different bureaus.

The CHAIRMAN. Are you contemplating any different character of stationery?

Mr. DEGRAW. Not at all, sir; except in a more simplified way. We have gotten up recently a requisition blank which will give postmasters on one blank everything they require for use in offices. That blank, for instance, will take the place of nineteen different forms of requisition.

The CHAIRMAN. Where do you buy this stationery?

Mr. DEGRAW. We buy it under contract.

The CHAIRMAN. Is it under contract now?

Mr. DEGRAW. Yes, sir; through the purchasing agent.

The CHAIRMAN. Through the purchasing agent?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. Is this estimate based in any degree upon any better quality of stationery than is contemplated?

Mr. DEGRAW. The money order and railway mail service items themselves, you will remember, Mr. Chairman, did not heretofore

come out of this appropriation. That has been transferred, and now comes under the new arrangement.

The CHAIRMAN. When you made up your estimates for the current year did you understand that the money order and railway mail service supplies would come in under this item?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. Then that is not different now from what it was when you made up the other estimates. Turn to page 41 of the skeleton bill that is before you. There appears an item for blanks, blank books, printed and engraved matter, binding and carbon paper for the money-order service, \$200,000. I do not see where the stationery for the money-order service could, in view of the fact that these blanks are already provided for under another item of appropriation, make such a burden as to justify a 60 per cent increase.

Mr. DEGRAW. You know, Mr. Chairman, that ink and pens and all those things are not included in this money-order account.

The CHAIRMAN. Certainly they are not. The only thing in your money-order account is the stationery included in money-order offices. It is not any supplies of the money-order department. It is simply for stationery, including all money-order offices. So that I think you are in error when you suggest that this increase is somewhat dependent upon the money-order supplies.

Mr. DEGRAW. Well, the money-order supplies so far as I have indicated—pens and ink, etc.—

The CHAIRMAN. Do not these money-order supplies come out of the item of \$200,000 that I refer to?

Mr. DEGRAW. No, sir.

The CHAIRMAN. This says "for the money-order service."

Mr. DEGRAW. I know, but the word "stationery" is not used there, and that is carried in the other appropriation.

The CHAIRMAN. This item of \$85,000 under the current year, and the \$105,000 which you request for the next fiscal year, covers nothing but stationery. Is not that true? And that stationery is only where used in money-order offices?

Mr. COVERT. All money order and presidential offices.

The CHAIRMAN. And the character of the blanks, blank books, and things of that kind that are used for the money-order service do not come out of this item?

Mr. COVERT. It affects the appropriation for stationery in no way whatever.

The CHAIRMAN. Absolutely. Hence I do not see where you can justify the increase in connection with the money-order service that you referred to a while ago.

Mr. COVERT. The pens, ink, and stationery of all kinds for money-order offices come out of the stationery appropriation. Heretofore anything connected with money-order offices not of the first and second class came out of some appropriation under the Third Assistant; something connected with the money-order service.

The CHAIRMAN. And now it comes out of this?

Mr. COVERT. And now it comes out of the stationery appropriation.

The CHAIRMAN. Was there any draft upon that item of \$200,000 for inks?

Mr. COVERT. That all comes out of the stationery appropriation. Nothing of that kind comes out of the money-order appropriation. ¶

The CHAIRMAN. It was understood a year ago that it would, was it not, in making up the estimate?

Mr. COVERT. I can not answer as to that.

Mr. DEGRAW. It was, Mr. Chairman, and somewhat erroneously, owing to our not being thoroughly acquainted with all of those details.

The CHAIRMAN. But you appreciate that a request here to increase that estimate 60 per cent over the last expenditure compels us to ask for some explanation for it?

Mr. DEGRAW. I appreciate that. The August estimates called for a reduction of \$20,000 in the appropriation for envelopes. Since those estimates were submitted the price of paper has increased to such an extent that it will be impossible to meet the demands with less than \$200,000. That, of course, is going to the next item, but the price of paper is increased there.

The CHAIRMAN. That is for the official and registry envelopes?

Mr. DEGRAW. Yes.

The CHAIRMAN. But that is only 10 per cent—in fact, that is a decrease.

Mr. DEGRAW. Mr. Chairman, I have a tabulated statement here, anticipating that you would make this point; a table that Mr. Covert, the superintendent of supplies, has been getting up for us. I think that if you will permit him to give you some items from that it will throw a little more light on the subject.

The CHAIRMAN. That is all right.

Mr. DEGRAW. It shows a great increase in the expenditures during the last six months.

The CHAIRMAN. It may be that if he explained all of these items together, at one time, it would throw some light upon the question. I just suggest that that be done.

Mr. COVERT. Mr. Chairman, is it really an increase of 60 per cent over the expenditures of last year? We are asking for an increase of \$20,000.

The CHAIRMAN. \$105,000 is about 60 per cent increase over \$65,000, which was the expenditure of 1906.

Mr. COVERT. Well, I do not believe that is an increase of 60 per cent.

The CHAIRMAN. Just figure what percentage of increase \$105,000 is over \$65,000. It is \$40,000 more than was expended in the present year, 1906.

Mr. SNAPP. It is over 60 per cent.

The CHAIRMAN. Turn to page 40 of the skeleton bill.

Mr. DEGRAW. Are you not figuring, Mr. Chairman, on the year before? Is it not 1906-7 that you want to figure on?

The CHAIRMAN. I am figuring on the last known expenditure for a full year.

Mr. DEGRAW. Oh, yes; I see. That is right.

Mr. COVERT. I have here a table showing the principal items purchased out of the stationery appropriation from July 1, 1906, to December 31, 1906, and going along at the same rate at which we have bought supplies for the six months from July 1 to December 31, will make an increase at the end of the year over the \$85,000 appropriated of \$25,702.85. That is just for furnishing what was supplied to postmasters before the consolidation of the supplies, and

for the railway mail service and the money-order service before they were transferred to the supply division.

The CHAIRMAN. But did you take into account that feature when you made your estimate of \$85,000 for the current year?

Mr. COVERT. I had nothing to do with that.

Mr. DeGRAW. No, sir; that was before this reorganization was completed, so that we could get at these matters as we desired.

The CHAIRMAN. All right.

Mr. COVERT. That would be an increase at the end of the year of \$25,000. Even now we are cutting postmasters' requisitions in half and not giving them over 50 per cent of what they ask. Postmasters all over the country are complaining about not receiving sufficient quantities of supplies, and we are not able to give them, because we have not the money.

The CHAIRMAN. What scrutiny do you know of that is made in learning the disposition of the supplies which you furnish the postmasters so far as stationery is concerned?

Mr. COVERT. The Chief Inspector is now incorporating in the form of inspection that the inspectors use in making inspections of post-offices a clause requiring inspectors to report on the condition of supplies in each post-office. I do not know whether or not that covers post-offices of all classes, but it covers the principal ones.

Mr. DeGRAW. It is general in its scope.

OFFICIAL REGISTRY AND DEAD LETTER ENVELOPES.

The CHAIRMAN. What does your revised estimate show as to the item for official and registry envelopes?

Mr. COVERT. Two hundred thousand dollars—just what it was last year.

The CHAIRMAN. You ask the same as the current law?

Mr. COVERT. Yes.

The CHAIRMAN. Your recommendation was for \$180,000.

Mr. COVERT. It was believed when that estimate was gotten up, going along on the same basis, that \$180,000 would do. But at the present time all the trade journals show that paper is going up every day and they all estimate now that—

The CHAIRMAN. What kind of a figure on paper do you use in making this estimate? Do you figure at a higher rate than the current rate, or not?

Mr. COVERT. We are figuring on a 10 per cent increase.

The CHAIRMAN. On a 10 per cent increase in the rate of paper. How much has the price of paper increased in the past twelve months?

Mr. COVERT. Ten per cent.

The CHAIRMAN. And do you think it will increase 10 per cent every year?

Mr. COVERT. I am just speaking about this time. I do not know that it will every year.

The CHAIRMAN. But in making your estimate of \$200,000, you estimate that during the next fiscal year the rate of paper will advance 10 per cent, the same as it did this year?

Mr. COVERT. Yes, sir.

The CHAIRMAN. And if it does not, \$180,000 will do?

Mr. COVERT. If there was no increase in paper we might make a contract at the same price at which paper was obtained last year.

The CHAIRMAN. Did you not make a contract under the clause which follows this item, where you are authorized to make a contract for the purchase of these envelopes?

Mr. COVERT. Up to July 1, I believe.

The CHAIRMAN. Do those contracts only run for a year at a time?

Mr. COVERT. No; but I think the idea was——

The CHAIRMAN. This authorized a contract for four years.

Mr. COVERT. I think there was some provision made to extend that contract. It expired on January 1, and I think some kind of provision was made to extend it to July 1 in order to allow a contractor to bid on both stamped envelopes and official envelopes.

The CHAIRMAN. Then they have not let any contract under this authority?

Mr. COVERT. The contract that is now in force has simply been extended six months and will expire on the 1st day of July.

The CHAIRMAN. Has there been any proposal to invite contracts?

Mr. COVERT. The proposals have just been submitted to the purchasing agent on which to invite bids. We submitted them two or three days ago.

The CHAIRMAN. Is that the first time the effort has been made since this authority was provided under the last appropriation bill?

Mr. COVERT. To make a general contract, I think so; yes, sir.

Mr. DEGRAW. For the reason, Mr. Chairman, again, that we did not get the figures straightened out as we hoped to do earlier than the time specified by Mr. Covert.

The CHAIRMAN. You requested this authority last year?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. And we granted the authority. Now more than six months have passed and you have not exercised it.

Mr. DEGRAW. Because, as I heretofore stated, we could not accomplish earlier the transfer of the proper people we desired to go into that division to take up the details.

The CHAIRMAN. How does it come that you extended this contract for a year and not for six months?

Mr. COVERT. I think that the contract for stamped envelopes, which comes under the Third Assistant Postmaster-General, expires on the 1st of July, 1907, and this old contract was continued until that time, in order to give everybody a chance to bid on all envelopes at the same time.

The CHAIRMAN. But let me call your attention to the phraseology of the existing law which you will find on page 40 of the skeleton bill:

The Postmaster-General is authorized to extend, for a period not exceeding six months, the contract for official, registry, and dead-letter envelopes for the postal service for the calendar year ending December 31, 1906.

Mr. COVERT. That is all he has extended it for?

The CHAIRMAN. That contract expired on the 31st of December?

Mr. COVERT. Yes, sir.

The CHAIRMAN. Now you have extended that for six months?

Mr. COVERT. Yes, sir.

The CHAIRMAN. Under that authority?

Mr. COVERT. Under that authority.

The CHAIRMAN. And the estimate which you have made for these envelopes is based upon the old contract, plus 10 per cent?

Mr. COVERT. Plus 10 per cent; yes, sir.

The CHAIRMAN. Do you not think that as long as your Department arbitrarily increases the rate of existing contracts in its estimates by 10 per cent bidders are very likely to bid at least 10 per cent more?

Mr. COVERT. I do not believe I understand your question.

The CHAIRMAN. Do not your estimates become a "pacing rate" for bidders upon that contract, and if you arbitrarily increase your estimate by 10 per cent do you suppose any bidder is going to bid any less than your estimate?

Mr. DEGRAW. That is a matter, Mr. Chairman, where we are submitting an estimate to cover what we feel, from the best information obtainable, may be essential, namely, a raise of 10 per cent. That matter comes, of course, within the exclusive jurisdiction of the purchasing agent, and we do not know that it will go to 10 per cent. We believe it will, however, from the best information obtainable.

Mr. COVERT. Just to show you what has occurred, up to December 31, we expended one hundred and one thousand and some dollars out of that appropriation of \$200,000. And another thing should be taken into consideration—we would have expended \$13,000 more if a clerk in the Supply Division had not found that an inferior grade of paper was being furnished, and the Postmaster-General deducted \$13,000 from the contract. So that by the end of the year we would have practically used up \$200,000 this year, under the present contract prices.

Mr. STAFFORD. What articles are included under the generic term "stationery" in that first item?

Mr. COVERT. I will read from the specifications if you wish.

Mr. STAFFORD. No; just generally.

Mr. COVERT. Paper, pens, inks, mucilage, blotters, blotting paper, penknives, blotter pads, cards, cardboard, blank copy books, tracing paper and tracing cloth, drawing materials, pencils, rubber bands, Miller postal account books, erasers, penholders—I believe those are the principal ones.

Mr. STAFFORD. How long is the contract for those articles let; and what is the method of letting the contract?

Mr. COVERT. The contract is let by the purchasing agent of the Department.

Mr. STAFFORD. Do you let the contract in an entirety, or by separate gradations of articles?

Mr. COVERT. There are different contractors for different articles. One contractor may be awarded the contract for four or five articles, and another contractor may have but one article.

Mr. STAFFORD. For what length of period does that contract run?

Mr. COVERT. I believe those contracts are for one year. I am not positive about that. The purchasing agent handles that entirely.

Mr. STAFFORD. Where does the contract provide for delivery?

Mr. COVERT. Within the doors of the supply division of the Post-Office Department.

Mr. STAFFORD. Then it is the practice of the Department to send these articles by mail to the various post-offices throughout the country?

Mr. COVERT. Yes, sir; nearly everything.

Mr. DEGRAW. It has been, Mr. Chairman, up to the present time, and will be until we are notified of the next weighing. Then we have to take up the matter of providing for shipment of these goods by freight, as per the instructions carried in the last appropriation bill, which I believe will come along about the first of February, from the information we have been able to receive up to the present time.

Mr. STAFFORD. Many of these articles can be provided by stationery houses at various parts of the country where these post-offices are located; can they not?

Mr. DEGRAW. Yes, sir; they could be provided there, but we could not make a series of contracts for them.

Mr. STAFFORD. Do you know what the practice is as to furnishing stationery for the engineering corps throughout the country, as to stationery necessary in the respective engineering divisions?

Mr. DEGRAW. No, sir; I do not.

Mr. STAFFORD. The practice there is, I may say, to authorize the local engineering officer to advertise for bids on stated proposals for the stationery necessary in his division, which does away with the added cost of sending those articles by mail.

Mr. DEGRAW. I doubt very much if as economical arrangements could be made locally in that way as under the bulk system now followed by the Post-Office Department. I am not familiar, however, with the engineering supplies.

Mr. COVERT. The creation of the purchasing agent's office of the Post-Office Department would prohibit any division or any branch of the Post-Office Department outside of the purchasing agent's office buying supplies.

Mr. STAFFORD. I was making the inquiry to see whether some system could not be substituted to relieve the trails of these supplies, and at the same time enable the service to be supplied with these materials at a low rate, as is done in other services. To what various offices are these articles supplied under the general head of "stationery"?

Mr. COVERT. Every first and second class office, and a small amount of supplies to all money-order offices.

Mr. STAFFORD. Whether they are third class or fourth class offices?

Mr. COVERT. Whether they are third class or fourth class offices, and to the Railway Mail Service?

Mr. STAFFORD. Does this provision of stationery provide for the letter stationery of postmasters throughout the country?

Mr. COVERT. Yes, sir.

Mr. STAFFORD. And for their envelopes that are necessary in their personal mail?

Mr. COVERT. No; the envelopes come out of the appropriation for official envelopes that the supply division furnishes to postmasters.

Mr. DEGRAW. That is a separate item.

Mr. STAFFORD. Last year your estimate was based merely on the providing of stationery for first and second class offices; it did not take into account the supply of stationery to the other offices not first and second class.

Mr. DEGRAW. That is right, during 1906; yes, sir.

Mr. STAFFORD. Why do you recommend the omission of the word "dead-letter," in the second item, from the phraseology of the bill?

Mr. DEGRAW. Where is that?

Mr. STAFFORD. On page 40; the second item.

The CHAIRMAN. In the regular estimates of the Treasury Department, reported to Congress, the postal service estimates appear. This item appears there as "official and registry envelopes, \$180,000;" and for that reason the word "dead-letter" is omitted from our recommendations. If you will turn to the estimates of appropriations, in the fore part of this draft, at page 006 of the bill before you, you will find, under the office of "Fourth Assistant Postmaster-General," the regular estimates. The second item is, "official and registry envelopes."

Mr. COVERT. Dead-letter envelopes would come under "official envelopes."

Mr. STAFFORD. And yet a year ago, when you were recommending a change in the phraseology, based upon the reorganization of this service, you included "official, registry, and dead-letter." Is not, by the term "official," a distinct character of envelope recognized, as contradistinguished from "dead-letter"?

Mr. COVERT. I should say not.

Mr. STAFFORD. The term "official envelope" would relate to the penalty envelope, while the term "dead-letter envelope" would refer to a specific kind; would it not?

Mr. COVERT. Just one kind of envelope.

Mr. STAFFORD. A registry envelope is also an official envelope, is it not?

Mr. COVERT. Yes, sir.

Mr. STAFFORD. Then why should you not omit "registry" if you omit "dead-letter"? Do you not ask for separate bids for official, registry, and dead-letter envelopes, describing them as such—describing them in those classes?

Mr. COVERT. We get up our specifications for every form of envelope.

Mr. STAFFORD. There is no special reason why dead-letter envelopes should be omitted?

Mr. COVERT. No special reason.

Mr. STAFFORD. And there might be some special reason why they should be included?

Mr. COVERT. I did not notice that. I did not have anything to do with getting up those former estimates, and I do not know why it was done.

BLANKS, BLANK BOOKS, ETC.

The CHAIRMAN. Mr. DeGraw, in the items for "blanks, blank books," etc., you ask for \$200,000, an increase of \$25,000 over the current law. What necessitates that increase? Or, by the way, have you any modification of that item?

Mr. DEGRAW. That is simply to meet the natural growth of the service, Mr. Chairman.

The CHAIRMAN. You ask no change in that estimate, I mean?

Mr. DEGRAW. No; there is no change in it.

The CHAIRMAN. In the estimate?

Mr. DEGRAW. No, sir.

The CHAIRMAN. You have made some changes in these other items?

Mr. DEGRAW. Yes, sir; that is right.

The CHAIRMAN. What is the condition of the appropriation for the current year? Are you going to have enough, or have any left?

Mr. COVERT. It will practically be expended at the end of the year.

The CHAIRMAN. The item for \$5,000, which next follows, is to cover a miscellaneous number of items. You ask for the same next year?

Mr. COVERT. Yes, sir.

SUPPLIES, CITY DELIVERY SERVICE.

The CHAIRMAN. In the supplies for the city delivery service you make no change in the recommendation?

Mr. COVERT. We ask that this appropriation be reduced from \$125,000 to \$80,000.

The CHAIRMAN. Are you quite sure that you can ask a decrease there?

Mr. COVERT. I think so.

The CHAIRMAN. That has been because you recommend the striking out of the freight and package and cartage charges, is it not?

Mr. COVERT. No; that is simply----

The CHAIRMAN. If you will look at page 42 of the skeleton bill, you will see that the language in brackets is not estimated or contained in your estimates. Do you propose to strike out the item of "freight, package, and cartage" from this item, and still get along with \$80,000?

Mr. DEGRAW. We have a separate appropriation for all that.

The CHAIRMAN. Ah! Then that separate appropriation is what has impelled you to recommend a decrease, is it?

Mr. COVERT. No, sir; no such thing.

Mr. DEGRAW. No, sir; we did not take that into consideration at that time.

Mr. COVERT. I think freight and cartage is included.

The CHAIRMAN. Then if "freight, package, and cartage charges" should be retained in this language, you would still recommend that it be reduced to \$80,000?

Mr. COVERT. We would still recommend that it be reduced to \$80,000.

The CHAIRMAN. What is your explanation for omitting the freight, package, and cartage charges from this item?

Mr. COVERT. The only explanation I can make is that it must have been intended to include it in one general allowance for freight.

Mr. DEGRAW. That was the understanding, Mr. Chairman, before the reorganization—that that freight would have to be paid out of the lump appropriation for which you made an appropriation of \$300,000.

The CHAIRMAN. No; we made an appropriation of \$250,000.

Mr. DEGRAW. Was it \$250,000?

The CHAIRMAN. Yes.

Mr. DEGRAW. And of course none of that has been touched yet, because we have not reached the weighing period.

The CHAIRMAN. Have you not paid any freight on supplies?

Mr. DEGRAW. Oh, yes. We have used some of that appropriation in transporting letterpresses. I had forgotten that.

The CHAIRMAN. Have you not used any freight in the supplies for the city delivery service?

Mr. COVERT. That is all, I believe, paid out——

Mr. DEGRAW. I do not recall any.

The CHAIRMAN. Paid out of what, Mr. Covert?

Mr. COVERT. It comes out of the appropriation for the supplies for the city delivery service.

The CHAIRMAN. The freight charges, you mean?

Mr. COVERT. Yes, sir.

The CHAIRMAN. To what extent have you utilized the freight in the transportation of supplies for the city-delivery service during the last six months?

Mr. DEGRAW. Only in the shipment of large letterpresses. We had upward of 100 very large letterpresses to ship. Some of them went to Alaska.

The CHAIRMAN. How are those letterpresses used in the city-delivery service?

Mr. COVERT. They are not purchased as city-delivery supplies; they are out of a different appropriation.

The CHAIRMAN. I am asking to what extent, if any, freight has been used in the transportation of supplies for the city-delivery service. That is the item that we now have before us.

Mr. COVERT. I have a statement here somewhere, if I can find it. [After looking for statement:] I am unable to locate that statement, but I have one showing the amount. I can furnish those figures. A few hundred dollars have been expended.

The CHAIRMAN. What I mean is, Mr. Covert, what has been the practice of the Department since the 1st of last July in the matter of transportation by freight of the supplies of the city-delivery service? I am not particular about the amount of money, but what is the practice of the Department?

Mr. COVERT. Such things as straps and satchels come direct from the contractor here, and are shipped by mail to the postmasters.

The CHAIRMAN. Why are they not shipped by freight?

Mr. DEGRAW. Because, Mr. Chairman, that would be a duplication of expense. In other words, under our contracts with the railroads the transportation of that character of supplies is provided for by mail. If we should ship them by freight, we would be paying the railroad the freightage——

The CHAIRMAN. You mean that is included now in the general pay of railroads.

Mr. DEGRAW. For mail service.

The CHAIRMAN. Have you shipped any such supplies into divisions where the weighing had taken place or was in process of being taken?

Mr. COVERT. It is not taking place; it will not commence until February.

The CHAIRMAN. No; since the first of last July no weighing has taken place. That is quite correct.

Mr. DEGRAW. No, sir; and as we understand, it will not take place until the first of February. In regard to the matter of these letterpresses, to which we just referred, there was a decision by the First Assistant Postmaster-General, something more than a year before this matter of freightage came up, to the effect that matter of such

bulk was not intended to be shipped by mail. Therefore there has been virtually no change made; but we have simply followed that decision, which was borne out by a subsequent opinion of the Assistant Attorney-General.

Mr. STAFFORD. Are all of these supplies that are covered in this appropriation, as well as those stated in the prior items, sent to the Department here by freight alone or are any of them shipped by mail?

Mr. COVERT. All that are shipped to the Department are shipped by freight; but letter boxes and package boxes and posts go direct from the contractor to the postmaster, at the expense of the contractor. Satchels and straps and the smaller items furnished out of that appropriation are sent to the Department at the expense of the contractor and delivered within the doors of the supply division.

Mr. STAFFORD. Why do you not extend that provision so far as the other matters covered in these items of appropriation are concerned?

Mr. COVERT. Because in the case of such things as satchels and straps every one of them is inspected by a committee appointed by the Postmaster-General for the purpose, to see that they comply with the requirements of the specifications.

Mr. STAFFORD. Each consignment is inspected upon its receipt here in Washington?

Mr. COVERT. Yes, sir.

Mr. DEGRAW. And, Mr. Stafford, if you will pardon me right there, you will remember that last year that question came up, and we told you how essential it was in the case of these satchels, whether leather or canvas, with thousands of them coming in, that they should be examined and passed upon by a standing committee appointed for that purpose, and how expensive it would be if we had to send that committee from Washington to the manufactories in order to ascertain whether or not they came up to specifications. And I will say here, by way of parenthesis, there are many of them that have to be returned.

Mr. STAFFORD. Why do you not provide in the contract that the expense shall be borne by the contractor for the delivery of furniture, baskets, time cards, time-card frames, time-recorder supplies, and these other items enumerated in this paragraph?

Mr. COVERT. I would like to modify a statement I made there. I said that the charges on letter boxes were paid by the contractor. That is erroneous. They are not. The freight charges are paid by the Department.

The CHAIRMAN. But they go direct from the manufacturer to the city of use?

Mr. COVERT. Yes, sir.

The CHAIRMAN. Mr. Stafford has asked a question that has not been answered.

Mr. DEGRAW. (To Mr. Stafford). The reason for that, I think, had better be explained by the purchasing agent, as he can probably tell you more intelligently than we can why it is more economical to do it under the present basis.

Mr. STAFFORD. Who provides the proposals which would contain such a provision—your office or the purchasing agent?

Mr. COVERT. We get the specifications, and I believe it should be the duty of the Fourth Assistant to say where the goods should be delivered.

Mr. STAFFORD. So the matter is within the jurisdiction of the Fourth Assistant rather than the purchasing agent?

Mr. COVERT. To say where the goods should be delivered?

Mr. STAFFORD. And as to the character of the shipment?

Mr. COVERT. I think so.

Mr. STAFFORD. Then I will put the question again: Why do you not make a similar provision to the other items contained in this appropriation, other than those that you have specially excepted and stated?

Mr. DEGRAW. Because, Mr. Chairman, up to the present time it has not been delegated to the Fourth Assistant to make those proposals or specifications. We simply advise the purchasing agent what is needed and request him to invite the proposals therefor, which he does.

Mr. STAFFORD. There is a conflict of statement between yourself and your assistant.

The CHAIRMAN. Mr. Covert has just stated that you prepared those specifications in your office.

Mr. STAFFORD. And that you had full charge of that matter.

Mr. DEGRAW. I should not have included specifications, which we do prepare—that is, as to what we desire; but we do not make the proposals for them or request their delivery, either by mail or freight.

The CHAIRMAN. Do you make the specifications or do you confine yourself to making the request?

Mr. COVERT. The specifications are drawn up in the office of the Fourth Assistant Postmaster-General.

The CHAIRMAN. Then Mr. Stafford asks (and I think very pertinently), if specifications are drawn up in your office, why do you not include in those specifications the transportation at the expense of the contractor?

Mr. DEGRAW. The only reason for that is that there are so many small lots that go out.

Mr. COVERT. I made an erroneous statement there, as I said before, in regard to letter boxes. They are shipped from the contractor direct to the postmaster; but the Government not pay the expense of that shipment.

Mr. STAFFORD. But my question is directed to the other articles besides those you have stated, and I ask why you do not require the shipment of these other articles at the expense of the contractor or at the expense of the Government, by freight, for delivery at the offices of use?

Mr. COVERT. Because we wish to inspect satchels and things of that kind. That might apply to time cards.

The CHAIRMAN. And do you inspect time cards?

Mr. COVERT. No; we do not inspect time cards.

The CHAIRMAN. Do you inspect baskets?

Mr. COVERT. No.

The CHAIRMAN. Do you inspect any of these other articles that have been enumerated?

Mr. COVERT. Nothing but satchels and straps.

The CHAIRMAN. Then I would be glad to hear an answer, if you can make it, to Mr. Stafford's question as to why you do not do that except as to straps and satchels. Why is not that a part of your specifications? Is there any reason for omitting it?

Mr. DEGRAW. Mr. Cochran, how have we gotten into that practice? We make the specifications, as has been stated to you.

Mr. COCHRAN. Yes, sir.

Mr. DEGRAW. And you make the proposals. Now, do you know of any good reason as to why we should not include these matters? We never have done it, of course, as far as I know.

Mr. COCHRAN. The articles of stationery have always come to the Department.

The CHAIRMAN. We are not talking of stationery; we are talking of the supplies for the city-delivery service.

Mr. COCHRAN. Yes, sir. The package boxes and letter boxes are inspected at Cleveland before they are shipped. We have recently inspected the baskets, also, and the letter presses were inspected at Chicago.

The CHAIRMAN. Are those the places of the manufacture of these articles?

Mr. COCHRAN. Yes, sir—at least the place of delivery by the contractor. The letter presses are made within about 40 miles of Chicago, but Chicago is the place where they have to be delivered to the Post-Office Department for shipment.

The CHAIRMAN. Then where do they go from there?

Mr. COCHRAN. They go from there direct to the postmasters after they have been inspected.

Mr. DEGRAW. Upon requisition of the Fourth Assistant upon the purchasing agent, who in turn deals with the contractor.

Mr. STAFFORD. How are they sent—by mail or by freight?

Mr. COCHRAN. They are sent by freight.

Mr. STAFFORD. By whom are they inspected?

Mr. COCHRAN. They are inspected by a post-office inspector. The sample press was sent out to Chicago for his use, so that he would have the sample on which the award was made to compare with those that were delivered.

Mr. STAFFORD. With every consignment is there a separate inspection made?

Mr. COCHRAN. Yes, sir; every press is marked "inspected and accepted."

Mr. STAFFORD. Who makes the inspection as to the letter boxes?

Mr. COCHRAN. Another post-office inspector.

Mr. STAFFORD. At a point nearest to the point of manufacture?

Mr. COCHRAN. At the point of manufacture—that is, in Cleveland, in that instance. Both the package boxes and the letter boxes, while not in the same contract, are made by the same contractor at Cleveland.

Mr. STAFFORD. With the permission of Mr. DeGraw, I would like to ask Mr. Cochran here whether he knows any reason why that same practice should not extend to these other items—such as furniture, baskets, time cards, time-card frames, time-recorder supplies, etc.

Mr. COCHRAN. It is extended to furniture, Mr. Stafford—that is,

the great bulk of it; all of the rural free-delivery stuff—but it is the city delivery you are talking of.

Mr. DEGRAW. This is the city delivery.

The CHAIRMAN. Yes; this is the city delivery.

Mr. COCHRAN. The satchels, I think, could be inspected at the place of manufacture; but it would involve some little trouble and expense for travel. But the Second Assistant inspects his stuff at the factory and has it either rejected or accepted there. There are some contractors who have stated to me that that is, in their judgment, a very much more desirable method, because if there are any slight imperfections they can be remedied right there. That is, if there are a few loose stitches, or something of that kind that would compel the rejection of the satchel, but still there is a very slight amount of work necessary to make it perfect, they would have the article right there, so that they could fix it up and have it ready for the next inspection.

Mr. STAFFORD. What is the practice of the Department as to embodying in the contracts a stipulation for the expense of shipment to be borne by the contractor or by the Department?

Mr. COCHRAN. In the case of all the satchels delivered to the Department—that is, delivered at the supply division—the contractor has to pay all of the transportation charges, and these other heavy articles are simply delivered crated f. o. b. at the station after they have been inspected.

Mr. STAFFORD. Is it the practice of the Department to inspect every article that is supplied to the postal service?

Mr. COCHRAN. It is the practice. There are some things to which it has not yet been extended. That is, there is a lot of leatheroid stuff manufactured at Kennebunk, Me., that we have never provided for inspection for, but the goods have always been satisfactory and are well made. No special necessity for it has ever been shown.

Mr. STAFFORD. Do you think it is necessary to have a special inspection of every basket that is offered to the Government under a contract?

Mr. COCHRAN. I think there should be such an inspection. The necessity for that was shown in the case of the contract at Peterboro., N. H. It was shown that the baskets ordered for the Department there during this season varied very materially from the accepted satchels.

The CHAIRMAN. How are those baskets used in the city-delivery service?

Mr. COVERT. They are used for carriers, for waste-paper baskets, and for carrying mail from cases.

The CHAIRMAN. In the office and about the city-delivery offices?

Mr. COVERT. In the offices.

Mr. STAFFORD. From what appropriation do you receive money to pay for the freight and drayage on articles similar to those described here in offices other than those used in the city-delivery service?

Mr. COVERT. The rural free-delivery appropriation—the appropriation for rural free-delivery supplies.

Mr. STAFFORD. Is there not some necessity for freight charges at offices that are not either city-delivery offices or connected with the rural-delivery service?

Mr. DeGraw. Those offices are generally smaller offices and located on the railroads.

Mr. Covert. I can not think of any case of that kind.

Mr. DeGraw. I have never discovered any such cases.

Mr. Stafford. If there were such offices, there would be no appropriation to pay for the shipment of supplies by freight to those offices.

Mr. Covert. I do not know what we could furnish to an office of that kind. I do not know of any supplies we could furnish.

Mr. Stafford. I can readily conceive how there might be a third-class office which would not have, of course, city-delivery service, and which might not have rural-delivery service, and which would still need supplies of this character.

Mr. Covert. I do not think we would furnish them.

Mr. Stafford. They would go without, then, because there would be no appropriation?

Mr. Covert. There would be no carriers there, and they would have no baskets or anything out of that appropriation.

Mr. Stafford. They might have need for some furniture in their office. They might have need for some time cards, or some of these stencils, or some of these other items named.

Mr. Covert. Then they would have to furnish them themselves—anything they wanted in that line.

POSTMARKING, RATING STAMPS, ETC.

The CHAIRMAN. Mr. DeGraw, in the item for the appropriation for postmarking, rating, and money-order stamps, ink, etc., of \$35,000, you recommend the same amount. Do you make any change now in that estimate?

Mr. DeGraw. We ask that that be dropped to \$30,000, Mr. Chairman—a reduction of \$5,000.

The CHAIRMAN. You have included ribbons for dating stamps. Was not that covered by any other appropriation?

Mr. DeGraw. No, sir; I think not.

The CHAIRMAN. In the preceding item, the one that was just left, you have included the words "letter-box fasteners." That was not covered by any other appropriation, was it?

Mr. Covert. They were bought out of the city-delivery appropriation.

The CHAIRMAN. They were bought, but you thought they ought to be specified?

Mr. Covert. Yes, sir.

The CHAIRMAN. And the same is true of the ribbons for dating stamps?

Mr. Covert. Yes, sir.

Mr. DeGraw. And both of those items, I will say, Mr. Chairman, came in from our experience of last year, when you desired further specifications as to the materials to be purchased. That is the reason we did that.

The CHAIRMAN. What do you mean by "money-order stamps," "year blocks for old postmarking, and money-order stamps?" You have added that expression.

Mr. COVERT. Can I make a statement in regard to this appropriation?

The CHAIRMAN. Certainly.

Mr. COVERT. We have reduced that appropriation to \$30,000, and have also reduced the appropriation that appears on page 44 for rubber stamps and type, metal-bodied rubber type, etc. The appropriation there for the current year is \$6,000, and we have reduced it to \$5,000, and we have reduced the one above from \$35,000 to \$30,000. We would like to include those two appropriations in one.

The CHAIRMAN. Those items are on pages 43 and 44?

Mr. COVERT. No; on pages 42 and 44.

The CHAIRMAN. You would like to include the item for post-marking, rating, and money-order stamps, etc., with the item for rubber stamps and type, etc.?

Mr. COVERT. Yes, sir.

The CHAIRMAN. What is your purpose?

Mr. COVERT. We buy certain stamps out of this \$35,000 appropriation now and certain other stamps out of the \$6,000 appropriation; but we may buy pads out of the \$35,000 appropriation and have them in stock, and a postmaster requests something—some of those pads, say; that is, a man who had ordered his stamps from the \$6,000 appropriation—and we would give him his supplies for those stamps, ink, etc., out of the \$35,000 appropriation. It is only a confusion of items, which could be obviated.

The CHAIRMAN. Then \$35,000 would be ample for both?

Mr. COVERT. Yes, sir.

The CHAIRMAN. Which would result in a reduction of \$6,000?

Mr. COVERT. Six thousand dollars on the two appropriations.

Mr. SNAPP. They want to consolidate those two at \$35,000.

Mr. COVERT. We want you to consolidate them at \$35,000. I would like to have that read as follows: "For steel and rubber post-marking, rating, and money-order stamps, and repairs to the same; metal, rubber, and combination type, dates and figures, type holders, ink and pads for canceling and stamping purposes, \$35,000."

Mr. STAFFORD. That suggested phraseology would cover both the item as found on page 42, asking for an allowance of \$35,000, and that on the top of page 44, for \$6,000?

Mr. COVERT. Yes, sir.

Mr. STAFFORD. Are these appropriations for supplies furnished to the same character of service?

Mr. COVERT. For the postal service—yes, sir; including every office.

Mr. STAFFORD. Can you state any reason why they should remain separate?

Mr. COVERT. No, sir; I should prefer to have them made one.

Mr. STAFFORD. Do you know why they originally came in this separate condition?

Mr. COVERT. I believe that parts of them were under different bureaus before the supply division was consolidated.

Mr. DEGRAW. That is correct. I know that to be a fact.

LETTER BALANCES, SCALES, ETC.

The CHAIRMAN. In the item for letter-balances, etc., you ask the same as the current law. Is there any change now in your revised estimates?

Mr. COVERT. We have asked that that be decreased from \$15,000 to \$10,000.

The CHAIRMAN. That is a decrease of \$5,000?

Mr. COVERT. Five thousand dollars. The reason for that is that we have a scale shop now, a branch of the supply division, and we are repairing the old scales as they come in.

WRAPPING PAPER, WRAPPING TWINE.

The CHAIRMAN. You ask for the same appropriation for wrapping paper—\$13,000.

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. And the same for wrapping twine and tying devices—\$200,000?

Mr. DEGRAW. Yes, sir.

PACKING BOXES.

The CHAIRMAN. You ask an increase of \$5,000 for packing boxes, sawdust, paste, and hardware. Is that on account of the increased price of sawdust?

Mr. COVERT. No; that is—

Mr. DEGRAW. There is more matter to be freighted, Mr. Chairman, under this freight requirement.

The CHAIRMAN. And not because of any additional price of the boxes and sawdust?

Mr. COVERT. No.

The CHAIRMAN. But on account of the additional goods that must be shipped in boxes?

Mr. COVERT. That is it.

Mr. DEGRAW. Yes; and the greater amount of packing, due to the requirement of shipping by freight.

The CHAIRMAN. Yes, that is what I meant.

Mr. DEGRAW. Now, we place these supplies right in the car; we do not have to box them, but when we handle the same supplies by freight we will have to include all of them in boxes.

Mr. SNAPP. You mean when they are sent by mail you do not have the trouble of boxing?

Mr. DEGRAW. Yes, sir; as it is now. But we will have to box them to send them by freight.

FACING SLIPS, ETC.

The CHAIRMAN. You ask for no change in the item for facing slips, etc., recommending \$65,000, just the same as at present.

Mr. COVERT. We reduce that to \$60,000.

Mr. DEGRAW. We believe that we can take \$5,000 off of that item, and that amount is included in the aggregate reduction.

The CHAIRMAN. I notice that you include the words noted in italics, "card slide labels." Was not that expression omitted at one time for some reason, and now you seem to ask its restoration?

Mr. COVERT. The appropriation last year provided for the purchase of card slide labels.

The CHAIRMAN. And it was dropped out of the current law?

Mr. COVERT. No, sir; it is in there now, I believe, on page 21.

Mr. STAFFORD. The bill as we reported it to the House, Mr. Chairman, contained the same phraseology as that embodied in this item.

The CHAIRMAN. I am trying to find out how that was dropped out. I do not recall. Where on page 21 is it?

Mr. COVERT. This is page 21 of the public acts and resolutions of the Fifty-ninth Congress, last year.

The CHAIRMAN. I see that it is in the law now. The clerk says he thinks this must be a typographical error in the print of the bill. It is in the law now.

Mr. COVERT. Yes, sir.

The CHAIRMAN. "Facing slips, etc., for card slide labels"—that is right; it is an error in the print of the bill.

Mr. STAFFORD. Of that amount how much had been expended up to the first of the year?

Mr. COVERT. Twenty-two thousand six hundred and thirty-four dollars.

Mr. STAFFORD. Is the rate of expenditure in the first half of the year about the same as during the remaining half?

Mr. COVERT. For facing slips, yes, sir; but at any time something is likely to come up making it necessary to buy some of the blanks and books of an urgent nature that are provided for in that appropriation.

RUBBER STAMPS.

The CHAIRMAN. In the case of the item for rubber stamps, etc., at the top of page 44, Mr. Covert has explained the desire for the consolidation, and the deduction of a thousand dollars there.

Mr. DEGRAW. Yes, sir.

TYPEWRITING MACHINES.

The CHAIRMAN. In reference to the purchase and exchange of typewriting machines, envelope-opening machines, etc., you ask for an increase of \$25,000. That is a 100 per cent increase.

Mr. COVERT. We ask now for an increase of \$75,000, or 300 per cent increase.

The CHAIRMAN. You ask for \$75,000?

Mr. COVERT. Seventy-five thousand dollars increase.

The CHAIRMAN. You ask for a total of how much?

Mr. DEGRAW. One hundred thousand dollars.

The CHAIRMAN. Will you please explain that?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. That is an increase of \$75,000 over your regular estimate?

Mr. DEGRAW. Yes, sir.

Mr. SNAPP. It is an increase of 200 per cent.

Mr. COVERT. Three hundred per cent.

Mr. DEGRAW. About 300 per cent; yes, sir. We have some figures on that which Mr. Covert will submit.

Mr. COVERT. The appropriation for the current year is \$25,000. Up to December 31, \$12,961.54 was expended. The amount available for the remaining six months is \$12,038.46. During the last six months we have had 284 requests for typewriters, amounting to \$28,740, which we think should be furnished. Ninety-five requests have been honored, or a total amount expended of \$8,559.07, leaving 189 requests unfilled, amounting to \$20,180.93.

The CHAIRMAN. You expended in the fiscal year 1906 about \$14,000 for these several items. Now you ask for \$100,000 for next year.

Mr. COVERT. I understand there was some misunderstanding up here a year ago over this item of typewriters. I think that a year ago typewriters were furnished through the division of salaries and allowances, the First Assistant's office. The Railway Mail Service, also the Inspectors' Service, furnished their own typewriters, and I do not know whether or not any other division furnished typewriters.

The CHAIRMAN. How many typewriters have you furnished during the past six months?

Mr. COVERT. Ninety-five.

The CHAIRMAN. What is the largest number furnished to any one office?

Mr. COVERT. I do not recall. I do not think we furnished more than two at the most, except in the case of the Railway Mail Service. We furnished seven machines to the Railway Mail Service.

The CHAIRMAN. Do you know where they have gone?

Mr. COVERT. To different division headquarters.

The CHAIRMAN. Division headquarters?

Mr. COVERT. Yes, sir. I can not recall the names of the divisions.

The CHAIRMAN. Has there been any exchange of old machines in any of these instances?

Mr. COVERT. Yes, sir.

The CHAIRMAN. What kind of prices are you getting on exchange?

Mr. COVERT. The average price has been thirty dollars.

The CHAIRMAN. On exchange?

Mr. COVERT. Yes, sir.

Mr. DEGRAU. But we do not undertake to exchange a machine unless we are very sure that it is beyond repair, without an expenditure that will bring it nearly up to the difference we have to pay for a new machine.

The CHAIRMAN. Do you buy different make of machines, or uniformly one make?

Mr. COVERT. No, sir; there are a number of machines under contract—the Monarch and all the standard machines, I believe.

The CHAIRMAN. Do you buy these in the open market, or under contract?

Mr. COVERT. Under contract.

The CHAIRMAN. What has been the experience of the Department in the past six months in reference to the other character of machines noted in this item?

Mr. COVERT. We have 60 requests for adding machines, not one of which has been granted. The total amount is \$16,500. For letterpresses, numbering machines, trucks, baskets, mimeographs, blotter baths, etc., we have honored requisitions to the amount of \$4,402.47. We have requisitions on hand already, or did have on the 31st of December, for such items as letterpresses, numbering machines, trucks, and baskets, etc., amounting to about \$2,500, making a total of all the requests for these miscellaneous items for the six months unfilled amounting to \$39,180.93.

The CHAIRMAN. If all of them had been granted without any restrictions at all, it would not have equaled this amount you are asking.

Mr. COVERT. No, sir—that is for six months; and assuming that the requests will come in at that same rate for the next six months—

The CHAIRMAN. Do you gauge your estimates, Mr. Covert, exclusively upon the requests?

Mr. COVERT. Oh, no; they have to meet certain requirements. Personally, I believe that every office named here should have any labor-saving device that could be furnished it.

The CHAIRMAN. I know; but can you leave it to the postmaster who makes the requisition to determine whether or not it is advisable to furnish it?

Mr. COVERT. We do not.

The CHAIRMAN. What is your practice in ascertaining whether these requisitions shall be filled or not?

Mr. COVERT. We have a form which all postmasters are required to fill out, showing the total number of transactions of all kinds occurring in their offices for four consecutive quarters.

The CHAIRMAN. Upon what do you base your judgment as to whether an office needs a typewriter or not?

Mr. COVERT. Upon the number of transactions of all kinds.

The CHAIRMAN. What kind of transactions?

Mr. COVERT. Money-order transactions—

The CHAIRMAN. Do all of the transactions involve the use of a typewriter?

Mr. COVERT. I think a whole lot of time can be saved—

The CHAIRMAN. How can you decide the necessity of a typewriter by a transaction that does not require any writing.

Mr. COVERT. All these statements do require writing.

The CHAIRMAN. Does the same character of transactions determine the necessity for envelope opening machines that determines the necessity for typewriting machines?

Mr. COVERT. We have only been furnishing a very few of those envelop-opening machines.

Mr. DEGRAW. We furnished two, I think, for the Department during the last year.

Mr. COVERT. They are not asked for by postmasters.

The CHAIRMAN. I am trying to ascertain to what extent your judgment is influenced by the pure requests of postmasters.

Mr. COVERT. To no extent whatever. When a postmaster's request is received by the Department we look up the amount of business done at his office, and if it comes up to the requirements—

The CHAIRMAN. What are typewriting machines used for at post-offices, aside from the writing of letters, correspondence?

Mr. COVERT. For making out their money-order statements, which require long-carriage machines.

The CHAIRMAN. How many money-order offices are there?

Mr. COVERT. About 38,500, I believe; nearly 39,000.

The CHAIRMAN. How many typewriting machines does the Government now own in the service of money-order offices?

Mr. COVERT. One thousand three hundred and eighty-six.

The CHAIRMAN. And there are how many money-order offices?

Mr. COVERT. There are 38,500—somewhere in the neighborhood of 39,000 money-order offices.

The CHAIRMAN. What proportion of the money-order offices now have typewriting machines?

Mr. COVERT. Those, of course, would all be Presidential offices. I can not say.

The CHAIRMAN. How many Presidential offices are there?

Mr. COVERT. There are in the neighborhood of 5,000.

The CHAIRMAN. There are about one-fourth of them now at which there are typewriters?

Mr. COVERT. Well, approximately; may be one-fourth.

The CHAIRMAN. Do you expect that the necessities will require as many typewriters each year as have been required in the past few years?

Mr. COVERT. After postmasters are once properly equipped with typewriters, adding machines, etc., the drain on this appropriation will not be so heavy; the initial installation counts. Here is a letter that the postmaster at Chicago wrote here, which he sent in as an estimate of what he will require from this appropriation for the next year. It amounts to a little over \$10,000, just for typewriters, adding machines, etc.

The CHAIRMAN. For that one office?

Mr. COVERT. That is just one office. We have another one here from the postmaster in New York, who wants approximately \$10,000. That is \$20,000 for those two offices alone.

Mr. DEGRAU. Mr. Chairman, if you will permit me, we have been going through the different offices and making requests of them before making this revised estimate.

The CHAIRMAN. What I would like to ascertain is how far the requests from your office to the different postmasters stimulate their requisitions?

Mr. COVERT. Not at all. It is simply gotten up in such a form as though it was a matter of record for the division of supplies.

The CHAIRMAN. As to what requisitions they want?

Mr. COVERT. It is simply a sheet——

The CHAIRMAN. You never find that the postmaster fails to make a request for an article which you ask him if he needs, do you?

Mr. COVERT. It is as though we were asking him for a list of the different machines, numbering machines, typewriters, etc., in his office.

The CHAIRMAN. That are already there, or that are needed?

Mr. COVERT. That are there. We do not ask him what is needed at all; we judge what is needed from——

The CHAIRMAN. I understood you to say a while ago that you bought these machines under contract.

Mr. COVERT. Yes, sir.

The CHAIRMAN. How long do those contracts run?

Mr. COVERT. Mr. Cochran says one year.

The CHAIRMAN. When does the present contract expire?

Mr. COCHRAN. On June 30.

The CHAIRMAN. June 30 next?

Mr. COCHRAN. Yes, sir.

The CHAIRMAN. Does that apply only to typewriting machines or to other machines?

Mr. COCHRAN. To other machines also.

The CHAIRMAN. Have you a contract for any of the machines carried in this item other than adding machines?

Mr. COCHRAN. Yes, sir; we have contracts for numbering machines and the like of that.

The CHAIRMAN. What is your contract price for typewriting machines?

Mr. COCHRAN. It is about \$78 for the standard machines.

The CHAIRMAN. What do you call the standard machines?

Mr. COCHRAN. Well, take the Remington No. 6, for instance.

Mr. COVERT. Correspondence typewriters—ordinary correspondence machines.

Mr. COCHRAN. The Oliver—

The CHAIRMAN. Are any of the typewriting-machine contracts under \$78?

Mr. COCHRAN. Yes, sir; the Oliver gave the cheapest price.

The CHAIRMAN. What is it?

Mr. COCHRAN. I think that is about \$69.

Mr. DE GRAW. Sixty-eight dollars, I think.

Mr. COCHRAN. Sixty-nine dollars and twenty-six cents.

The CHAIRMAN. What is your contract price for the numbering machines?

Mr. COVERT. About \$6—\$6 and some cents.

The CHAIRMAN. Have you a contract for the adding machines?

Mr. COCHRAN. No, sir.

The CHAIRMAN. Do you buy those in the open market?

Mr. COCHRAN. We have an arrangement with the Burroughs machine, entered into last year, under which they agreed to give us 11 machines for the price of 10. That is, we do not buy 11 at a time, but the understanding was that they would give us that price on all their grades of machines, and on everything that they furnished.

The CHAIRMAN. Is that their catalogue price or their market price?

Mr. COCHRAN. Their regular market price.

Mr. SNAPP. Do you purchase anything but Oliver machines?

Mr. COCHRAN. Oh, yes; we purchase half a dozen different kinds.

Mr. DE GRAW. Every standard machine.

Mr. SNAPP. Why, on account of the difference in price between the Oliver and these others, does not the Government take advantage of the lower price and patronize the Oliver Company exclusively?

Mr. DE GRAW. We do wherever we can. The postmasters in some instances insist upon having a different type of machine.

The CHAIRMAN. Then I come back to my question, which I have repeated so many times: Do you gauge what you do upon the requests and preferences of the postmasters?

Mr. COVERT. For the make of the machine; yes, sir.

Mr. DE GRAW. We have done that as to the make of the machine. The machines vary considerably, you know.

Mr. SNAPP. The Oliver, as I understand it, is well recognized as a first-class machine, and it can be purchased by the Government at a large saving over the purchase price of other machines. I would like to know why you do not discriminate in favor of the lower-priced machine which is just as good in every way.

Mr. COVERT. All other machines are about the same price, I believe, with the exception of the Oliver. Lots of postmasters claim that they can not use the Oliver for their business; that they can not write out their money-order statements with an Oliver machine.

Mr. SNAPP. Do you not know as a matter of experience that the Oliver machine will do any kind of work that a No. 6 Remington will do?

Mr. COVERT. I do not think it will do as good work, no, sir; personally speaking.

Mr. DEGRAW. I would like to state right there, also, that one reason why the Department has been very careful, especially under the present administration, about deciding what character of machine shall be furnished, is to avoid the charge of favoritism, or, in other words, "grafting." If you will give us a law on that subject we shall be very glad to supply one machine.

Mr. SNAPP. Does it need any law now to induce the officers of this Department to purchase the cheapest machine that they can, or the cheapest article that they can, for the use of the Government?

Mr. DEGRAW. No, sir; not if it can do the work. But, as Mr. Covert has explained, we have lots of letters from postmasters who say that the Oliver machine will not do the work.

Mr. SNAPP. Then your practice of patronizing all of these machines in order to satisfy them all is not the true one, is it?

Mr. DEGRAW. Patronizing all of the machines?

Mr. SNAPP. In other words, in the purchase of these machines or other supplies of the Department, it is done in order to appease manufacturers?

Mr. DEGRAW. Oh, no, sir.

Mr. SNAPP. Or is it done for the purpose of supplying the Government at the cheapest rate?

Mr. DEGRAW. We endeavor to supply the cheapest machine, always. We would rather furnish the Oliver if they would take it; but we do not feel that we are empowered to insist upon their taking it.

Mr. SNAPP. You have said two or three times here that you did not consult the postmasters in the supplying of these articles.

Mr. DEGRAW. We do so far as the make of the machine is concerned. Mr. Covert distinctly stated that.

Mr. SNAPP. The reason I ask this question is that it has been represented to me that the Oliver typewriting machine, which can be supplied to the Government at a great saving over these other machines, has been discriminated against.

Mr. DEGRAW. Well, that is not so.

Mr. SNAPP. And I have been looking from time to time for some evidence of it.

Mr. COVERT. So far as the make of the machine goes, the postmaster has invariably been given the make of machine that he requested, if he was given any machine.

Mr. DEGRAW. Unless he got up into the high-grade machines, including a lot of fancy attachments, and then we have stopped him. We do not furnish those.

Mr. SNAPP. I would like to have it go in the record that I think it is a very pernicious practice of the Government to follow the wishes of the postmasters in the supplying under contract of machines or any other material necessary in the postal service.

Mr. COVERT. I believe that during the postal investigation a few years ago that question came up, and it was criticised from all sources—the practice of supplying the Elliot & Hatch typewriters, putting them on the postmasters where they could not use them, or claimed that they could not use them. Some thought it was a fine

machine and others did not, and I do not see why the same thing would not apply to these.

Mr. STAFFORD. Has the Department ever made any tests of the standard machines to determine whether or not they were of equal efficiency?

Mr. COVERT. Yes, sir.

Mr. STAFFORD. What has been the result of those tests?

Mr. COVERT. I think they found that the standard machines, what are called standard machines, were about the same; that one was about as good as another.

Mr. STAFFORD. None of them having any superior advantages over any of the rest?

Mr. COVERT. No great special advantages.

Mr. STAFFORD. Was the Underwood machine considered one of the standard machines?

Mr. COVERT. I think so. The Underwood is under contract.

Mr. STAFFORD. At what price?

Mr. COVERT. I believe it is \$78. I am not positive.

Mr. STAFFORD. Are you acquainted with any Department of the Government having adopted one certain style of machine for use in that Department?

Mr. COVERT. No, sir.

Mr. STAFFORD. Are you acquainted with the fact that the Underwood machine has been adopted for exclusive use in the Navy Department?

Mr. COVERT. No, sir.

Mr. STAFFORD. At a much lower price, because of its adoption exclusively, than that at which it is offered to you generally under these contracts?

Mr. COVERT. No, sir.

Mr. SNAPP. Mr. Stafford, do you mean less than \$78?

Mr. STAFFORD. Less than \$78. What would prevent the Post-Office Department from having one certain style of machine adopted for use, not only in the Department, but throughout the service, if it was found workable in the Navy Department?

Mr. COVERT. Nothing on earth.

Mr. STAFFORD. Do you, or does the purchasing agent, if I may ask him, know of any such contract with any Department whereby they use one special machine and obtain it at a reduced rate?

Mr. COCHRAN. I know that about the Navy Department; yes, sir.

Mr. STAFFORD. Has the Navy Department any special contract for the use of one machine?

Mr. COCHRAN. Yes, sir; it has had for a number of years.

Mr. STAFFORD. What machine is that?

Mr. COCHRAN. It is the Underwood.

Mr. STAFFORD. Do you know what price they pay for those machines?

Mr. COCHRAN. Sixty-two dollars and fifty cents. Of course that is on information and recollection. I understand, though, that that is the price that they pay for it, on the condition that no other machine whatever shall be bought by the Navy Department.

Mr. STAFFORD. Have you charge of the preparation of the proposals for typewriter machines?

Mr. COCHRAN. No, sir.

Mr. STAFFORD. Would you have authority, under the present operation of your Department, if you found that the Underwood machine was the equal of these other standard machines, and you could make a contract whereby there would be a saving of a good many dollars on each machine, to embody such a provision in a contract, providing for its exclusive use in the Department's service?

Mr. COCHRAN. I could suggest such a thing as that. I could not compel it, however.

Mr. STAFFORD. Upon whom rests that authority?

Mr. COCHRAN. Whenever the Bureau officers (the Fourth Assistant's office in this case) and myself can not agree on any item of the specifications, the matter has to go to the Postmaster-General.

Mr. STAFFORD. In this specific case, who has the authority to determine such a question, as to what style of machine shall be adopted, and whether any economies can arise by reason of designing one particular machine?

Mr. COCHRAN. The Postmaster-General.

Mr. STAFFORD. Who before the Postmaster-General has the matter submitted to him?

Mr. COCHRAN. The Fourth Assistant Postmaster-General first, and then it comes to me.

Mr. STAFFORD. Has this matter ever been submitted by you to the Fourth Assistant Postmaster-General, or has the Fourth Assistant Postmaster-General submitted it to you?

Mr. COCHRAN. It was discussed pretty generally in the Department a year ago. I think the Fourth Assistant at that time did not have any connection with the supply division, although he was probably consulted about it. There was a call made on all of the Department officials for an expression of opinion as to the adoption of one standard typewriter exclusively if considerable saving could be made by the use of one, as in the Navy Department; and every last one of them recommended against it. That is my recollection. I believe the Third Assistant Postmaster-General was more favorably disposed toward the idea than any other; but even he was not in favor of it.

Mr. STAFFORD. Do you know any reasons they advanced for their opposing uniting on any one machine?

Mr. COCHRAN. That a typewriter and stenographer who was trained on a certain machine and accustomed to its working would not do as good work on another machine.

Mr. STAFFORD. Is it not a fact that a typewriter operator can learn quickly to adjust himself to another machine of these standard makes?

Mr. COCHRAN. I think so. I am not an operator, however. Mr. Covert is. His judgment on that point will probably be better than mine.

Mr. COVERT. I think I am a pretty good one, but I do not think I would fancy very many changes; that is, from one machine to another. I am not saying that a man can not accustom himself to the use of any machine.

Mr. STAFFORD. Can not you, after a certain time, adjust yourself to a new-style machine?

Mr. COVERT. I could; yes, sir.

Mr. STAFFORD. Can not typewriters generally adjust themselves?

Mr. COVERT. Yes, sir.

Mr. STAFFORD. And are not the keyboards of these standard machines arranged generally in the same way?

Mr. COVERT. Practically—the standard machines—yes, sir; with the exception of the Smith Premier.

Mr. STAFFORD. Do you or the purchasing agent know whether the prices of these machines are controlled by any agreement among the manufacturers?

Mr. COCHRAN. I am told that there is such an agreement, Mr. Stafford. I do not know it, however.

Mr. SNAPP. I want to ask a question there.

Mr. STAFFORD. All right.

Mr. SNAPP. Is it not a fact that the reason the Oliver typewriter can be contracted for for a less rate than what you call the standard machines is due to the fact that it does not belong to what is called the typewriter trust?

Mr. COVERT. The Oliver is classed as a standard machine.

Mr. SNAPP. Then answer the balance of the question.

Mr. COVERT. No, sir; it has no effect on it whatever. We do not know anything about a trust.

Mr. SNAPP. Do you not know that it does not belong to the typewriter trust?

Mr. COVERT. No, sir; I do not.

Mr. SNAPP. Do you, Mr. Cochran?

Mr. COCHRAN. I have that information.

Mr. SNAPP. Yes, sir; it is well known by everybody, apparently, except the Department that does the purchasing.

Mr. STAFFORD. Now, one further question. Is an inspection required by the Department of each machine before they are accepted?

Mr. COCHRAN. Yes, sir; they are inspected, all that are delivered at the Department.

Mr. STAFFORD. Do they require inspection to safeguard the interests of the Government?

Mr. COCHRAN. I think so; but the machines that are sent out in the service—for instance, to Chattanooga—are not inspected there before delivery, because they are delivered from the Chattanooga agency.

Mr. STAFFORD. What does the contract provide so far as the method of delivering is concerned—at whose expense, and by what character of delivery?

Mr. COCHRAN. When the typewriter contracts were let last year, the contracts called for delivery here in Washington only. The Underwood Typewriter Company, however, subsequently learned about this legislation preventing the shipment of supplies by mail and voluntarily offered to deliver its machines, transportation paid. That same proposal was submitted to all the other contractors and they all agreed to it.

Mr. STAFFORD. So at present the arrangement is for the contractors to supply the machines at point of use?

Mr. COCHRAN. Yes, sir. They do that voluntarily, although by the contract they are required only to deliver at Washington.

Mr. STAFFORD. Such a provision will be embodied in the next contract, will it not?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. One question in connection with this matter. Mr.

Cochran, what makes of machines are supposed to be controlled, so far as prices are concerned, by the so-called typewriter trust?

Mr. COCHRAN. I have heard the statement that practically all of them are, except the Oliver. Now, I do not know whether that is true or not, Mr. Snapp.

Mr. SNAPP. I have heard the same thing, and I have no doubt it is true; because when I purchase machines I find that they all agree exactly, so far as prices are concerned, except the Oliver.

Mr. GRIGGS. Mr. Cochran, you say you pay \$78 for the typewriters that are in the trust and that you pay \$68 or \$69 for typewriters just as good that are not in the trust?

Mr. COCHRAN. Well, that is the Oliver typewriter.

Mr. GRIGGS. Yes; that typewriter trust must be a good trust, is it not?

Mr. COCHRAN. I am afraid——

Mr. GRIGGS. I say that because you pay it more.

Mr. COCHRAN. I am afraid I am not an authority on that question.

Mr. DEGRAW. Mr. Chairman, I would like to state right here, in behalf of the Department, that since the supply division came over to us and we have had these typewriters to furnish, or to specify which ones should be furnished through the purchasing agent, I have only had one complaint from the Oliver typewriter people that there has been any possible discrimination, and that was given examination right away, and I think was settled entirely to the satisfaction of the gentlemen; that is, it was shown that it was an error of judgment on the part of the agent, who supposed that there had been some discrimination.

Mr. STAFFORD. In whom is the authority lodged to determine whether one character of machine shall be used or a dozen types of machine?

Mr. DEGRAW. The Fourth Assistant's office is practically the first, but we do not decide that, as I stated.

Mr. STAFFORD. Some of the committee thought that since the creation of the purchasing agent, the purchasing agent would have that authority lodged with him, so that there might be large economy resulting from one character of article being purchased.

Mr. COVERT. All specifications are prepared in the bureau affected by those specifications. They are then submitted to the purchasing agent. He revises those specifications. If there is anything in them that does not meet with his views, he takes it up with the bureau officer; and if they can not come to an agreement, the purchasing agent then takes it up with the Postmaster-General and settles it.

Mr. STAFFORD. As I understand the statement of the purchasing agent and the Fourth Assistant, at present the purchasing agent is without authority to make any economies in the purchase of supplies when he thinks that there is room for such economies. That is all I have to ask.

RURAL DELIVERY CARRIERS.

The CHAIRMAN. Mr. DeGraw, in the item for the pay of rural letter carriers, you estimate an increase of \$1,475,000. Have you any modification of that estimate, in view of your modified statement of the others? You ask for an increase for the next year over the present year of \$1,475,000. Why will you require that much, when you had over \$900,000 left at the end of the last year, in view of the fact that you have spent for the first quarter of this year only about \$6,600,000?

Mr. DE GRAW. We have the figures here to answer that. Mr. Spilman will read them for you.

Mr. SPILMAN. We have estimated that to continue the service that was in operation on June 30, 1906, will require \$25,214,785. To continue the service of the 3,500 carriers which it is estimated will be appointed during the current year will require \$2,397,500.

The CHAIRMAN. Is that estimated as at the rate of a full year's pay for those additional 3,500?

Mr. SPILMAN. Yes.

The CHAIRMAN. Will you appoint that many more on the 1st of July?

Mr. LLOYD. You are figuring for next year; that would be proper.

Mr. SPILMAN. They are being appointed during this year.

The CHAIRMAN. I thought you meant the next fiscal year.

Mr. SPILMAN. Now, in the next fiscal year, to inaugurate new service, involving the employment of 3,000 carriers, \$1,070,412 will be required.

Mr. GRIGGS. Do you make that an average of six months?

Mr. SPILMAN. We figure a little closer than that. We can figure it pretty closely from the way it has run before. But that is about the way it would be; yes, sir. Then to pay substitutes for 39,167 carriers on vacation at the rate of \$600 per annum, \$979,175; clerks in charge of substations, \$12,000.

The CHAIRMAN. How many carriers were appointed during the last six months—during the six months ending December 31?

Mr. SPILMAN. One thousand two hundred and fifty-eight, sir; that is, there were 1,258 routes. Some of them may have been every other day service, but there were approximately that number.

The CHAIRMAN. Yes; that is what I mean. How many routes were installed during the last half of the fiscal year 1906?

Mr. SPILMAN. I would not be able to give you that offhand, Mr. Overstreet.

The CHAIRMAN. How many were installed during the whole of the year 1906, ending June 30 last?

Mr. SPILMAN. Three thousand six hundred, I think.

The CHAIRMAN. Then you estimate that there will be approximately the same installation during the closing six months of the current fiscal year that there was during the closing six months of the last fiscal year?

Mr. SPILMAN. That is our estimate; yes. Three thousand seven hundred routes were established during the whole year—last year.

The CHAIRMAN. And you estimate that there will be 3,000 during the next year?

Mr. SPILMAN. Yes, sir.

The CHAIRMAN. Did you not have some such detailed estimate of this particular item at the time you made your estimates for the current fiscal year?

Mr. SPILMAN. Yes, sir.

The CHAIRMAN. How did it happen that you overestimated by about \$900,000?

Mr. SPILMAN. I recall that we overestimated by, as we thought, \$1,000,000, and submitted a supplemental estimate. The estimate was made up in August, and by December the number of petitions filed had fallen off to such an extent that we saw that the number of

routes estimated for would not, in all probability, be established, and that we could reduce the appropriation accordingly.

The CHAIRMAN. But in that revised estimate, which would have resulted in a reduction of your original estimate by practically a million dollars, you had made no estimate for pay of substitutes on vacations?

Mr. SPILMAN. Very true.

The CHAIRMAN. And that Congress authorized, fifteen days' vacation, without increasing that estimate.

Mr. SPILMAN. Yes, sir.

The CHAIRMAN. The amount that you estimate for this next year to cover the vacation period is \$979,000?

Mr. SPILMAN. Yes.

The CHAIRMAN. Therefore the amount of the increase was about equal to the excess of the original estimate?

Mr. SPILMAN. Exactly.

The CHAIRMAN. And still you have some left?

Mr. SPILMAN. Exactly.

The CHAIRMAN. Then are you not likely to fall into a similar error in these estimates for the next year?

Mr. SPILMAN. That is possible.

Mr. DE GRAW. Mr. Chairman, a good bit of that can be charged up to the peculiarity of last winter. If you will remember, we had a winter that was very changeable. We could not get our inspectors through at all. First it was open, then it would close up, and the inspectors could not make inspections.

The CHAIRMAN. That checked the installation?

Mr. DE GRAW. Considerably, sir; and of course the investigation for installation also. The inspectors had a very hard time getting around.

The CHAIRMAN. If you had known when you made your original estimate last year that a vacation of fifteen days to rural carriers was going to be provided, or if you had estimated for that in the original estimates, you would have asked in the first estimate for practically a million dollars more than you did?

Mr. SPILMAN. At the time that the estimate was made.

The CHAIRMAN. Yes, sir.

Mr. SPILMAN. By the time the bill was passed we would not have, because this decline continued.

The CHAIRMAN. Yes, sir.

Mr. SPILMAN. And we saw that our estimate was too large.

The CHAIRMAN. Exactly so; and if you had recommended the fifteen days' leave originally, or had known when you made up your modified estimate that it was going to be authorized by Congress, you would not have asked for any decrease of it?

Mr. SPILMAN. No—well, we might have asked for some, yes, but not much.

Mr. FINLEY. Mr. Chairman, Congress gave \$400,000 more than the revised estimate last year.

The CHAIRMAN. Exactly so; and they are undoubtedly going to have a good deal of it left, and I am trying to ascertain if that does not justify a reduction now of the present estimate. While the money is not expended, there is no need of burdening the appropria-

tion bill by a larger amount than is really necessary. Let us get down to it in this way:

How much of this money that is appropriated for the present year has been expended, and what is necessary for expenditure during the next half of the year, regardless of the installation of new service during the next six months?

Mr. SPILMAN. The cost of the old service—that is, the service that was in operation June 30 up to January 2—is \$12,606,762. The cost of service installed up to January 2 is \$723,317. The cost of service ordered installed, effective at future dates, is \$94,479. There has been expended for substitute service up to date \$482,155—a total of \$13,906,713.

The CHAIRMAN. Then if no new service should be installed prior to the 1st of next January, would the expense for the second period be about the same as that expense?

Mr. SPILMAN. If no new service were installed?

The CHAIRMAN. Yes.

Mr. SPILMAN. No; it would not be quite twice this, because, you see, we have installed some new service, and that would not be doubled up.

The CHAIRMAN. Well, what is your estimate of the amount which would be required for the service for the current fiscal year?

Mr. SPILMAN. We have made no estimate of that. That depends, of course, upon the amount of new service that is installed.

The CHAIRMAN. Exactly so; but supposing that the same amount of service is installed for the last half of the current fiscal year that was installed for the last half of the last fiscal year. How much money would it take for this expense during the entire fiscal year of 1907?

Mr. SPILMAN. About double what it has taken so far.

The CHAIRMAN. Well, what is that figure there—\$13,000,000?

Mr. SPILMAN. \$13,906,000. Of course I have made no estimate of that, and have not figured it out; but it would be about double.

The CHAIRMAN. That would make \$27,812,000; so that you are going to have between \$600,000 and \$1,000,000 left this year, are you not, even with the fifteen days' pay?

Mr. SPILMAN. That would be \$27,812,000—yes.

The CHAIRMAN. And you have available for this year \$28,200,000?

Mr. SPILMAN. Yes.

The CHAIRMAN. No; at this rate the difference would be about \$400,000. So that you will have, will you not, in excess of \$500,000 left at the end of the present fiscal year?

Mr. SPILMAN. I think so.

The CHAIRMAN. Then, in view of that, can you not cut the estimate that you have now made for the next fiscal year?

Mr. SPILMAN. If we were absolutely sure, Mr. Overstreet, that the service to be installed next year would decline with the same rapidity that it has, we could; yes, sir.

The CHAIRMAN. Have you not a right to assume, Mr. Spilman, that the service for the next fiscal year will be no greater in proportion than it has been during the past two years?

Mr. SPILMAN. Well, I think possibly that is true; and yet it is somewhat conjectural. We will get petitions spasmodically from this section or that section where the service is still in its virgin condition.

The CHAIRMAN. You feel, then, that in the dissemination of the service you ought to have a leeway of approximately \$500,000?

Mr. SPILMAN. I would not put it exactly that way. In conferring with the Fourth Assistant about it, our idea was that we should estimate for enough so that we could install the service that was applied for and found to be warranted for establishment.

The CHAIRMAN. How do you arrive at that? Do you not gauge it somewhat upon the demands as they have existed in the past few years?

Mr. SPILMAN. Exactly.

The CHAIRMAN. And upon the extent to which the service is being installed?

Mr. SPILMAN. Exactly.

The CHAIRMAN. And the probability that in the same sections where it has been installed there will not be any additional demands?

Mr. SPILMAN. Exactly.

The CHAIRMAN. Then how do you arrive at the judgment that you have followed in asking for approximately half a million dollars more than would be necessary if similar conditions obtained?

Mr. SPILMAN. Simply taking the conditions that obtained at the time the estimates were made, we estimated that 3,000 routes would be established within the coming fiscal year.

The CHAIRMAN. Yes; but, Mr. Spilman, you are carrying into the next year the same character of mistake in your estimate that you have carried in the past years; and I am seeking to have that eliminated. Your mistake is not based, if you please, upon the installation of the 3,000 routes during the next year; but your mistake is that you are carrying forward the basis upon which you make the general increase, and that basis has been discredited by your own figures.

Mr. SPILMAN. I do not agree with you, sir, that that is what we have done.

The CHAIRMAN. Well, what is the result? You had \$911,000 left at the end of the last fiscal year.

Mr. SPILMAN. Exactly.

The CHAIRMAN. You will have at least half a million dollars left at the end of this fiscal year.

Mr. SPILMAN. Very well, sir.

The CHAIRMAN. What is the total amount required for the installation of 3,000 routes during an entire year?

Mr. SPILMAN. We have estimated it here at \$1,070,000.

The CHAIRMAN. Then if you have based your increase entirely upon the installation, you have asked a leeway of 25 per cent of your entire estimate. Is not that too big a leeway?

Mr. SPILMAN. The difference between what was estimated for a year ago and what was expended arises in this: Speaking from recollection, I think we estimated that 4,500 routes would be installed during the then current fiscal year. As a matter of fact, 3,700 only were installed. That accounts for it in a measure. We have estimated here for 3,500 routes for the current fiscal year. As I have already indicated, 1,624 routes have been ordered established, and the latest date for which service has been ordered established is March 16. That would leave six dates yet open on which to assign service.

The CHAIRMAN. And you are not likely to exceed your 3,500?

Mr. SPILMAN. We are not likely to reach the 3,500.

The CHAIRMAN. Exactly.

Mr. SPILMAN. To that extent the estimate submitted will be excessive. Yet there is an element of uncertainty there. The rate of

establishment might increase a little over what it has been. My judgment is that it is not likely to.

Mr. GRIGGS. Mr. Chairman, will they not have left at the end of this fiscal year, the excess that Congress gave for rural delivery last year over their estimate?

The CHAIRMAN. No; because in addition to their estimate last year Congress gave fifteen days' leave of absence, which reaches approximately \$1,000,000.

Mr. GRIGGS. Yes; that is right.

The CHAIRMAN. So that Congress gave \$1,000,000 more than their estimate, which was equivalent to their revised estimate; and notwithstanding that, there is going to be a margin over.

Mr. GRIGGS. That is to say, they have, without expending within \$500,000 of what was appropriated last year, accomplished all they intended to do with that?

The CHAIRMAN. And fifteen days' leave of absence.

Mr. GRIGGS. And fifteen days' leave of absence besides. Well, you did a good year's work.

Mr. FINLEY. The estimate for the fifteen days' leave is included in this.

The CHAIRMAN. Undoubtedly; and I think that they can install during the next fiscal year approximately 3,000 routes, pay all of their carriers' salaries for rural routes, and the fifteen days' leave, and then have money left.

Mr. SPILMAN. I say that is possible.

The CHAIRMAN. Is it not probable, in view of the experience of recent years?

Mr. SPILMAN. It is.

The CHAIRMAN. Is it not more than probable?

Mr. SPILMAN. It is probable.

The CHAIRMAN. Then why estimate for it?

Mr. SPILMAN. As I said a moment ago, Mr. Overstreet, we felt that we should estimate taking things as they were at the time this estimate was made, and as they are continuing—that we should estimate for all of the service that was likely to be applied for and that we were warranted in estimating for.

The CHAIRMAN. Do you not believe that you could cut this estimate by \$500,000 and do all that you have now said you probably would do; and would not that be safe, provided no greater number than 3,000 routes were installed during the year?

Mr. SPILMAN. Well, I think so. I would not want to be bound by that, however.

Mr. DEGRAW. Yes, Mr. Chairman; I think that could be done, but we did not want to run the risk involved after coming before you gentlemen and saying that we could get through on that, because, as Mr. Spilman explains, it is very problematical.

The CHAIRMAN. At the same time your officers there had before you absolutely all of the detailed information. We only have what we obtain through your recommendations.

Mr. DEGRAW. Exactly.

The CHAIRMAN. And where you overestimate, it compels us to go to such a minute detail of investigation that it appears to put us in the light of at least favoring a less liberal course in the administration than you intend to pursue. Now, last year your original estimate

was \$1,000,000 in excess of your modified estimate; and as soon as the Department made its modified estimate, you will recall, it was charged by members of both branches of Congress that a change of policy had occurred, and that it was the intention of the Bureau to be less fair in its installation. And at once this committee was confronted with the difficulty of cutting the figures down to your estimate, because we could not persuade some members, even of this committee, that it was not the intention to change the policy. Now you come right back and make an estimate for a larger amount than you now admit you could probably get along with, and the committee is confronted with the same embarrassment. If we undertake now, in the light of your own admissions, to cut this appropriation, even though we are honest in it and you are honest in it, and we all believe that the service would not in the least be impaired, there would be many members of the House who would refuse to agree to the reduction, because they would fear that it meant a change of policy. So that I still think that the responsibility is more heavily upon the Bureau than it is upon the committee.

Mr. SPILMAN. I think that is right.

The CHAIRMAN. And that the bureau ought to be more careful in its estimates, in view of that. If, year after year, you come and want more money than you need simply to make it so that you will be safe, and then come before the committee and admit that you can get along with less, why not in the first instance estimate for a less amount?

Mr. GRIGGS. Mr. Chairman, as one of those who voted last year for that excess in the appropriation over the estimate, I wish to say that I think the chairman has misstated the position of at least one of those gentlemen who voted in that way; that is, that we could not be persuaded that the Department did not intend a change of policy. That was not my idea. My idea was, as I stated then, to show that Congress intended for them to make a liberal application of the law in these cases. That was all. It was not a change of policy.

Mr. FINLEY. Mr. Chairman, in the application of the estimates for the next year you must provide for the number of added carriers and the pay for the substitutes; and at 3,000, that would be \$150,000 a year.

Mr. SPILMAN. Pardon me. There would not be any pay for the substitutes—for the 3,000—because the vacation does not come until twelve months' service has accrued.

The CHAIRMAN. They are not entitled to the fifteen days' leave until they have served for twelve months.

Mr. FINLEY. But how about the 3,000 who go in this year?

The CHAIRMAN. That is true.

Mr. FINLEY. They will get it next year.

Mr. SPILMAN. But not the full time, because their twelve months will be accruing during the year, you see, and that would be a small amount.

Mr. FINLEY. There would be, say, three-fourths of them that would get it, would there not?

Mr. SPILMAN. Not the full fifteen days; no.

Mr. STAFFORD. Can you give the number of routes that were in operation on June 30, 1906?

Mr. SPILMAN. June 30, 1906?

Mr. STAFFORD. Yes.

Mr. SPILMAN. Thirty-five thousand seven hundred and sixty-six.

Mr. STAFFORD. How many routes have been installed up to date, or to January 2?

Mr. SPILMAN. One thousand two hundred and fifty-eight, and 366 ordered installed.

Mr. STAFFORD. How many petitions are on file for new service?

Mr. SPILMAN. There are 1,602 petitions unacted on.

Mr. STAFFORD. At what rate are petitions being received?

Mr. SPILMAN. At the rate of from 160 to 200 a month.

Mr. STAFFORD. How many new routes do you estimate will be installed during this current year by the close of the fiscal year?

Mr. SPILMAN. Somewhere between 3,000 and 3,500; not more than 3,500.

Mr. STAFFORD. Is it certain that there will be 3,000 if only 1,258 have been installed during the first six months?

Mr. SPILMAN. I think there will be 3,000. That is an estimate, you understand, of course.

Mr. STAFFORD. What is your estimate for the new routes next year?

Mr. SPILMAN. Three thousand.

Mr. GRIGGS. Is your estimate based on \$720 a year for carriers, or upon your recommendation?

Mr. SPILMAN. It is based on \$720—what the law provides.

Mr. GRIGGS. What difference would it make in this appropriation if the committee should determine on \$900 for the salaries?

Mr. SPILMAN. We estimated that if a maximum salary of \$900 is fixed an increase of \$4,500,000 would be required.

The CHAIRMAN. May I interrupt to suggest that at this point Mr. Spilman give the scale of pay which now obtains under the existing statute? Seven hundred and twenty dollars is the maximum, and how do you arrive at the other payments for less mileage? I want to get the practice of the Department.

Mr. GRIGGS. That is all right; yes.

Mr. SPILMAN. Seven hundred and twenty dollars is paid on routes of 24 or more miles, and then there is a deduction of \$18 per mile for each mile under 24.

Mr. GRIGGS. Eighteen dollars per mile?

Mr. SPILMAN. Per mile per annum. In a general way that covers the statement, unless you want the exact amounts.

The CHAIRMAN. Have you a regular scale that you follow, that you can put in the record here?

Mr. SPILMAN. Yes; but that covers it in general. I can give the figures, I think, from memory. The amounts are \$720, \$702—

Mr. GRIGGS. Seven hundred and two dollars for what?

The CHAIRMAN. Let me state it, and if I am wrong you can correct me.

Mr. SPILMAN. Yes; you have it here.

The CHAIRMAN. But I want it in the record—the schedule of salaries of rural carriers as now in force under existing law is as follows [reading:]

Twenty-four miles and over.....	\$720
Twenty-three to twenty-four miles.....	702
Twenty-two to twenty-three miles.....	684
Twenty-one to twenty-two miles.....	666
Twenty to twenty-one miles.....	648
Eighteen to twenty miles.....	612

Sixteen to eighteen miles.....	\$576
Fourteen to sixteen miles.....	540
Twelve to fourteen miles.....	504
Ten to twelve miles.....	468

In that connection, are there any carriers traveling a route of less than 24 miles who are receiving the maximum of \$720?

Mr. SPILMAN. There are.

The CHAIRMAN. And that is confined, is it not, to those carriers who were in service at the time the law was changed, fixing the maximum at \$720?

Mr. SPILMAN. It is confined to those carriers who were in the service on June 30, 1904; yes, sir.

The CHAIRMAN. That is all, Mr. Griggs. I simply wanted to get that in the record.

Mr. GRIGGS. Your practice, then, is, or your rule, rather, as I understand the law, that we shall fix the maximum rate, and leave you to regulate the scale; and you deduct \$18 per mile per annum. Do you not think that you are making it a little too close when you go by the 1 mile?

Mr. DEGRAW. Well, that has been our experience, Mr. Griggs. We have tried to be a little more liberal in the new schedule, however, and have made them 2 miles apart.

Mr. GRIGGS. That is just the point I was driving at.

Mr. DEGRAW. I think perhaps it would be better.

Mr. GRIGGS. Would not 2½ miles be better in making your deductions, so as to make it \$25 and then \$22.50, instead of \$18 per mile, and then make it \$18 for the 2½, and then \$20? Would it not be fairer to the carriers?

Mr. DEGRAW. Undoubtedly so.

Mr. GRIGGS. Do you not think this—that it would take practically the same number of horses and the same time for a carrier to go 23 miles that it would to go 24?

Mr. DEGRAW. Yes, sir.

Mr. GRIGGS. And do you not think it would be unjust to that carrier, then, if you deducted from his salary \$18 because he only goes 23 miles and the other goes 24? Do you not think that? Do you not agree with me on that?

Mr. DEGRAW. I do agree with you; yes, sir.

Mr. STAFFORD. Why do you have the present schedule in force, if it is entirely within the discretion of the Department, if you approve of the suggestion of Mr. Griggs?

Mr. DEGRAW. Because I found it that way when I went there, and I have carried it on, not feeling that we should cross the bridge before we got to it. We felt that this readjustment of salaries was coming, and we felt that that would be the proper time to make the change.

Mr. FINLEY. Generally along that line, what about the number of resignations? Of course that is in your report, but I think it ought to go in the record. The number of resignations has been very large in the past year, has it not?

Mr. DEGRAW. Yes, sir. We have brought that matter up to date, with a view to answering that question.

Mr. FINLEY. I wish you would tell us that; I think it ought to go into the record.

Mr. SPILMAN. The number of resignations during the last fiscal year was 4,441.

Mr. FINLEY. And that was 12 per cent of the entire force, was it not?

Mr. SPILMAN. Yes, sir.

Mr. FINLEY. An increase of 1,559 over the number of the preceding fiscal year?

Mr. SPILMAN. Yes, sir.

Mr. FINLEY. What is the rate of resignations from the rural carrier force this fiscal year—that is, up to this time?

Mr. SPILMAN. Up to November 30, 2,642 carriers had resigned. Since that date 567 have resigned. The rate began to decrease about the middle of December.

Mr. FINLEY. And that was about the time that the Postmaster-General's report and the Fourth Assistant Postmaster-General's report began to circulate over the country, was it not?

Mr. SPILMAN. They were published early in December.

Mr. FINLEY. I say that was about the time that the information got about?

The CHAIRMAN. What was the date?

Mr. SPILMAN. The date of that report?

The CHAIRMAN. The date which you gave there.

Mr. SPILMAN. I gave the week ending the 15th of December. The rate kept up until the ending of that week. Then there was a perceptible drop.

Mr. FINLEY. Then I asked the question whether it was not about the time that the Department's report in reference to the salaries of carriers became known over the country.

The CHAIRMAN. Another way to ask the question is as to when the Fourth Assistant Postmaster-General's report was made public.

Mr. GRIGGS. Well, it does not get over the country very rapidly.

The CHAIRMAN. I know; but I think the report of the Fourth Assistant was made public some time after that date.

Mr. FINLEY. Well, the Postmaster-General's report was made known about that time.

Mr. LLOYD. It was made public through the press, though, before that time.

Mr. FINLEY. General, what is the cause, in your judgment, of the large rate of resignations? What, in your opinion, is the cause?

Mr. DEGRAW. I think that the present cause of the large number of resignations is the insufficient salary, or insufficient compensation.

Mr. FINLEY. That is, the compensation is insufficient?

Mr. DEGRAW. Yes, sir.

Mr. FINLEY. Have you any means of knowing what character or what standard of employees the class of men that you are losing from the service are?

Mr. DEGRAW. No; not generally speaking. I recall a number of men who have had excellent records with us. Of course we have not come in personal contact with them. Men who have had excellent records have simply resigned without stating why, saying they could do better.

Mr. FINLEY. What are the reasons generally given by carriers when they have have resigned—that is, where they give a reason?

Mr. DEGRAW. They do not generally give a reason.

Mr. FINLEY. I mean those that do give a reason. What reason do they generally assign?

Mr. DEGRAW. I have never had them come to my observation.

Mr. SPILMAN. I made a rough estimate upon inquiry about a year ago, and I found that about half of them gave a reason and about half of those assigned the fact that they were going to have better positions.

Mr. FINLEY. That is, they were going to get better compensation in some other line of employment?

Mr. SPILMAN. Yes, sir.

Mr. DEGRAW. That is the only intimation that we have had, though, that they were going to do better.

Mr. FINLEY. General, your recommendations are in your report; but in order to get them in the record, what, in your opinion, would be a fair compensation for the carrier on the standard route of 24 miles?

Mr. DEGRAW. We went very carefully over that subject, Mr. Finley, and we thought that inasmuch as we could not successfully make a different grade of salary for different sections of the country \$900 would be a fair maximum at this time.

Mr. FINLEY. And for a shorter route than the standard route the pay would be graduated?

Mr. DEGRAW. At, say, 2 miles.

Mr. FINLEY. And what reduction for, say, a 22-mile route or 21 miles—21 to 22?

Mr. SPILMAN. Twenty-one to 22 miles?

Mr. FINLEY. Yes, sir; or the way you have your grades arranged.

Mr. SPILMAN. Well, on prorating, the salary for 25 miles or more would be \$900; 23 to 25 miles, \$840; 20 to 23 miles, \$780; 16 to 20 miles, \$660; 12 to 16 miles, \$540; under twelve miles, \$480 per annum, that being the minimum compensation.

Mr. STAFFORD. Have the resignations been great, General, in any one section of the country?

Mr. DEGRAW. No; not especially so. The New England people have not been resigning so much.

Mr. SPILMAN. They come more from the country generally, but perhaps more in proportion from the States of Pennsylvania, the two Dakotas, Washington, and Oregon.

Mr. DEGRAW. In the mining districts we find, Mr. Stafford, that they are resigning more rapidly than elsewhere.

Mr. STAFFORD. Where the travel conditions are more severe?

Mr. DEGRAW. Well, not in every instance. In some instances that applies, but they declare they can do better with their horses. They can unquestionably get more money for their own employment and the employment of their horses combined than they are now receiving from the rural service. That we found especially true in the mining and coal regions.

Mr. STAFFORD. What percentage of resignations have come from the service in the Southern States or the Western States or the Northwestern States, in any one section of the country as a group?

Mr. SPILMAN. We have made no inquiry about that at all.

Mr. STAFFORD. Can you furnish a rough estimate as to whether the proportion of resignations has been the same in these respective groups of territory?

Mr. SPILMAN. Not now, no; not offhand.

Mr. STAFFORD. Can you furnish the committee that information?

Mr. SPILMAN. We could give a rough estimate of it.

Mr. STAFFORD. I would like to have you furnish the committee with some general estimate.

Mr. FINLEY. General, you have already stated that in your opinion the compensation is insufficient. Now, on what is that opinion based? To what expense is the carrier put in order to perform his services, to do his work, and about what is the cost of that?

Mr. DEGRAW. We figure that a carrier has to expend in the neighborhood of \$300 a year out of his compensation for his equipment and maintaining his stock.

Mr. FINLEY. And his vehicle?

Mr. DEGRAW. Yes.

Mr. FINLEY. And repairs?

Mr. DEGRAW. And repairs, of course.

Mr. STAFFORD. How do you segregate that item of expense?

Mr. FINLEY. If you will excuse me, it is stated in full in the Postmaster-General's report.

Mr. DEGRAW. It is in my annual report you will find it, Mr. Stafford. I say there that the cost of horses and their maintenance varies greatly throughout the country, but a moderate estimate of the original average cost of horses and vehicles is \$275, and the estimated average cost of maintaining an outfit is about \$250 per annum. With the daily wear and tear to which the carrier's equipment is subjected the life of the horses and vehicles ranges from three to five years. Based on these estimates the average annual cost of the carrier's outfit is from less than \$300 to \$340, if kept in such condition as to be a credit to the postal service, leaving from \$380 to \$420 for his own labor.

Mr. STAFFORD. When you stated that you could not successfully recommend a different wage scale to varying districts of the country, what reason did you have in mind as to why a different wage scale should be in force?

Mr. DEGRAW. Simply that it would create a great deal of dissatisfaction unless we had a general scale for every section of the country.

Mr. STAFFORD. Were there any differences in conditions which would warrant a different scale if it could have been successfully established?

Mr. DEGRAW. No, sir; I can not say that there were. The only conditions which we could consider in that regard would be in the maintenance of the stock. For instance, in some sections of the country feed is higher than in other sections. That is the only thing we could have taken up; but we found we could not do that successfully or satisfactorily.

Mr. FINLEY. General, I do not think you have been asked this question, Does the Department consider it practical or not to undertake to make an allowance for horse keep or feed or anything of that sort?"

Mr. DEGRAW. No, sir.

Mr. FINLEY. Rather than to give a straight increase of salary?

Mr. DEGRAW. We found that there would be no end of contention if we undertook that, and that the better way would be to give a straight increase of salary.

SUPPLIES FOR RURAL SERVICE.

The CHAIRMAN. In your item for supplies for the rural delivery service you recommend the same that the current law carries—\$150,000. Have you made any modification in that item?

Mr. COVERT. We recommend that that be reduced to \$80,000.

The CHAIRMAN. You recommend a reduction to \$80,000?

Mr. COVERT. Providing one or two changes are made in the wording of the appropriation as it stands at present.

The CHAIRMAN. What are those?

Mr. COVERT. The Postmaster-General has transferred \$12,500 of that appropriation to the division of rural delivery, out of which to pay tolls and ferriage charges, and \$5,000 to pay for making of maps in the office of the topographer, making a total of \$17,500 transferred to the rural delivery division.

The CHAIRMAN. Out of what fund would that \$17,500 be taken?

Mr. COVERT. It was taken from the appropriation providing for the furnishing of supplies for the rural delivery service; but now it should come out of the appropriation for the pay of letter carriers, etc., by including the provision for the payment of tolls and ferriage charges in the rural delivery service.

The CHAIRMAN. In the item which we have just left, aggregating \$29,675,000, there was nothing said about the charge for tolls and ferriage. If I understand you, you do make such a recommendation now?

Mr. COVERT. Well, this came subsequent to that in the skeleton bill, and that is the reason nothing was said about it up to this moment. We ask now that the language of that item be amended so as to include in the item "pay of letter carriers, etc.," the payment of tolls and ferry charges in the rural delivery service.

Mr. SPILMAN. Mr. Chairman, the idea is this: The matter of the payment of tolls and ferry charges is directly connected with the rural delivery service, and is under the supervision of the division of rural delivery. The idea was that if we took this particular item, tolls and ferriage, and put it in the item of pay of letter carriers, then all of the item would be under the jurisdiction of the division of rural delivery; whereas the item which you are now discussing is under the jurisdiction of the division of supplies.

The CHAIRMAN. Then do you ask that your estimate relative to the rural delivery carrier service be increased by \$17,000?

Mr. SPILMAN. Only \$12,500 for the tolls; the other is the making of maps.

The CHAIRMAN. This is the first information the committee has received that you have modified the estimate for the rural carrier service.

Mr. SPILMAN. Yes; as I understand it, the matter is now being presented for the first time.

The CHAIRMAN. I know, but it is being presented under the item for supplies. We have passed the item for carriers, and nothing had been said about it.

Mr. SPILMAN. I think you will find that the tolls and ferriage are included in the item now under discussion.

The CHAIRMAN. Yes.

Mr. SPILMAN. And the idea is to transfer that particular item of that appropriation.

The CHAIRMAN. And what about the making of maps? Does that go to your Department as well?

Mr. DEGRAW. That goes to the topographer.

The CHAIRMAN. What was done with reference to the topographer's department, which was carried heretofore in the legislative bill? It was continued in the legislative bill, was it not?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. Then we have not anything to do with that part of it. If there should be no change of language in reference to the supplies, Mr. Covert, leaving it as it is, you would ask for \$97,000?

Mr. COVERT. Ninety seven thousand five hundred dollars.

Mr. SPILMAN. You know we want \$500 more for the tolls. It would be \$98,000.

The CHAIRMAN. What is that other \$500 for?

Mr. SPILMAN. We have found, since we estimated \$12,500, that that will run us very close, for the reason that the rate of toll increases as we have new contracts made.

The CHAIRMAN. Where have you your present authority for paying tolls?

Mr. SPILMAN. In this item we are now discussing, Mr. Overstreet.

The CHAIRMAN. Under what heading?

Mr. COVERT. Supplies for rural delivery service.

The CHAIRMAN. (Reading.) "Supplies for the rural delivery service, including collection boxes, furniture, satchels, badges, straps, freight, packing and cartage charges, repairing satchels and furniture, repairing, erecting, and painting collection boxes, map supplies, tolls and ferry charges"—yes. Now, you want the maps and tolls and ferriage—

Mr. COVERT. Stricken from that.

The CHAIRMAN. Stricken from that, and incorporated under the item of appropriation for the letter carriers' pay?

Mr. COVERT. Yes, sir.

The CHAIRMAN. And in that event you reduce the estimate for the general supplies of the rural delivery service to the sum of \$80,000?

Mr. COVERT. Yes, sir.

Mr. DEGRAW. That is right.

TOPOGRAPHICAL OFFICE.

The CHAIRMAN. But what is the practice now as to the manufacturing of these maps? Who makes the maps?

Mr. COVERT. Five thousand dollars has been set aside out of which to pay for the making of these maps.

The CHAIRMAN. Who is making them now?

Mr. COVERT. I think different people around town here.

Mr. SPILMAN. They are made under the supervision of the topographer.

The CHAIRMAN. The topographer's office is under the legislative bill, is it not? In the legislative appropriation bill provision is made for the division of topographers?

Mr. DEGRAW. Yes.

The CHAIRMAN. That is the present law?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. And is this same division of topographers now performing service for the rural delivery service and the postal service?

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. You pay out of this supply department to that division certain moneys?

Mr. SPILMAN. The expense of certain work that that division does.

The CHAIRMAN. How do you arrive at how much it is going to be?

Mr. DEGRAW. You see, the topographer makes the star-route maps and all, Mr. Chairman.

The CHAIRMAN. How are the supplies enumerated in this item that we are now reading purchased—through the rural delivery service direct or through the purchasing agent?

Mr. COVERT. The purchasing agent purchases them for the supply division.

The CHAIRMAN. That is to say, do you make the contracts?

Mr. COVERT. The purchasing agent makes the contracts, I think.

The CHAIRMAN. Do you make requisition on him for them?

Mr. COVERT. Yes, sir.

The CHAIRMAN. And are all of the supplies under annual or longer contract terms?

Mr. COVERT. Most of them, I believe, are annual contracts.

Mr. COCHRAN. No; the furniture contracts are four-year contracts, and also the box contracts.

The CHAIRMAN. The word "furniture" was not included in the current law under this item, was it?

Mr. COVERT. I think it is—"including collection boxes, furniture, satchels, badges, straps, etc."

The CHAIRMAN. Then the italics in that item ought to be stricken out. That is an error in the print. Are these various items enumerated in this paragraph inspected, Mr. Cochran, at the time of delivery to the Government?

Mr. COCHRAN. Yes, sir. The furniture is made at High Point, N. C., and the contractor has a sufficient number to—

The CHAIRMAN. I refer to the various other things—the collection boxes and satchels and badges and straps?

Mr. COCHRAN. Yes, sir; every one of them is inspected.

The CHAIRMAN. What officers or employees render the inspection?

Mr. COCHRAN. For the inspection that is done away from Washington, we generally utilize post-office inspectors.

The CHAIRMAN. What proportion of the time of any given number of post-office inspectors is taken up with the inspection of these items of supply—not this particular item of rural delivery, but all items of supply for the Department?

Mr. COCHRAN. Well, that is pretty hard to tell.

The CHAIRMAN. What peculiar technical knowledge has a post-office inspector which enables him to properly pass upon these various items of supply?

Mr. COCHRAN. He has not any, but we try to give him the instruction that he needs. For instance, we furnish them the accepted sample, and show him what that is, what the standard is, and then if it does not come up to that it does not take very much technical knowledge to determine it.

The CHAIRMAN. In a general way, are the same individual inspectors used in the inspection of these items, or do you use any post-office inspector?

Mr. COCHRAN. On anything that requires experience and skill we try to have the same inspector. For instance, the most difficult inspection is that of the street letter boxes and the package boxes.

The CHAIRMAN. That is in the city service?

Mr. COCHRAN. Yes—well, such boxes as they use they get from the same contractor.

The CHAIRMAN. To what extent have these supplies during the past six months been shipped by freight?

Mr. COCHRAN. Altogether—that is, all of the heavy stuff; all of the boxes and tables, etc.

WEIGHT LIMITATION, SHIPMENT BY MAIL.

The CHAIRMAN. To what extent have the supplies for the rural delivery service for the past six months been distributed by mail?

Mr. COCHRAN. I do not have anything to do with the distribution, Mr. Chairman, so I can not answer that question.

The CHAIRMAN. Have you any information as to whether or not the limitation of 4 pounds' weight has been observed in the postal department shipments by mail?

Mr. COCHRAN. No, sir; I have not.

The CHAIRMAN. You have no information on it at all?

Mr. COCHRAN. I think, however, that it has not been observed. I think the view taken by the Department is that that is expected to apply before the weighing season begins.

The CHAIRMAN. Who has made any such order as that?

Mr. DEGRAW. The matter was referred to the Assistant Attorney-General for an opinion as to when the shipment by freight should begin; and an opinion rendered, under which we have been acting.

The CHAIRMAN. But what I am speaking of now, Mr. DeGraw, is the provision which is contained in the current law, that "hereafter no article, package, or other matter, except postage stamps, stamped envelopes, newspaper wrappers, postal cards, and internal-revenue stamps, shall be admitted to the mails under the penalty privilege, unless such article, package, or other matter," (except these various stamps) "would be entitled to admission to the mails under laws requiring payment of postage," which would prohibit the entry to the mails under a penalty privilege of a package that was in excess of four pounds in weight.

Mr. DEGRAW. Well, sir; I should make the same answer. That is what I understood you were asking about.

The CHAIRMAN. Yes; but that has not anything to do with the appropriation for freight. That is a prohibition of the use of the mails. Do I understand you to say that these supplies have been sent in the mails during the last six months in excess of 4 pounds weight?

Mr. COCHRAN. I think they have; yes, sir.

Mr. DEGRAW. They have, Mr. Chairman, under the opinion of the Assistant Attorney-General heretofore cited.

The CHAIRMAN. And the opinion of the Attorney-General for the postal service is that that is not a violation of that section?

Mr. DEGRAW. He said he construed—I can not quote the decision of the Assistant Attorney-General, but his idea was that the meaning and intent of that clause was that it should not go into operation until the weighing period, for the reason that if it did go into operation before that time the Department would be paying double prices for the shipments of these supplies.

Mr. FINLEY. I would like to ask, General, if the other Departments, like the Treasury, are shipping iron safes and things like that through the mails; or have you any knowledge of that? I believe that was stated here last year.

Mr. DEGRAW. That is a matter that has not come under my jurisdiction.

Mr. FINLEY. What do you say about that, Mr. Cochran?

Mr. COCHRAN. No, sir; I think that—

Mr. FINLEY. How do they make their shipments now?

Mr. COCHRAN. By freight and express.

Mr. FINLEY. They have taken those things out of the postal service?

Mr. COCHRAN. I think so. Of course, I have not any definite knowledge as to matters of that kind.

Mr. LLOYD. Is that true of the War Department, too?

Mr. COCHRAN. I think so.

POST-ROUTE MAPS.

The CHAIRMAN. The rest of the items on page 46, while in italics, I think are intended to cover some provisions relative to the freight item. The first item there, of miscellaneous expenses in the preparation and publication of post-route maps and rural-delivery maps or blueprints, \$25,000—is that a new item from any that we have had before, or has that been carried out in some preceding item? You know the bill is made up according to the estimates of the Department, and this comes up in that way: "The above item is submitted as a transfer from the contingent expenses, legislative appropriation."

Mr. DEGRAW. Yes; that was entirely foreign to me.

The CHAIRMAN. That item is carried in the legislative bill now, is it not?

Mr. DEGRAW. That comes through the chief clerk's office.

The CHAIRMAN. These items in italics, then, that I have just referred to, and all, in fact, referring to the division of topography, are carried, I understand, in the legislative bill. Now, on page 138 the legislative bill proceeds: "For miscellaneous expenses in the division of topography, in the preparation and publication of post-route maps, including tracings for photolithographic reproduction," and there is a whole lot of money appropriated. Now if the members having page 46 before them will follow the second paragraph, I think it is in the same language:

"And the Postmaster-General may authorize the sale of post-route maps to the public at the cost of printing and 10 per centum thereof added, the proceeds of such sales to be used as a further appropriation for the preparation and publication of post-route maps; and of this amount \$100 may be expended for the purchase of atlases, geographical and technical works needed in the division of topography."

Mr. STAFFORD. So no provision is made by that phraseology for the rural-delivery maps, which work has been transferred from the division headquarters to the office of the topographer.

The CHAIRMAN. But you will find at the bottom of page 45, in brackets, "and for the making of maps." That is what Mr. Covert explained a while ago, as I understood. He said that \$17,500 was taken out of the item of supplies for the rural delivery service; \$5,000 of it was assigned to the making of maps, and \$12,500 for tolls and ferries.

Mr. COVERT. Yes, sir.

Mr. STAFFORD. But if the same phraseology should be continued, how much would you require in addition to your revised estimate of \$80,000?

The CHAIRMAN. Seventeen thousand five hundred dollars, he said in answer to my question.

Mr. COVERT. Seventeen thousand five hundred dollars.

SHIPMENT OF SUPPLIES.

The CHAIRMAN. So that those miscellaneous items would go out, because they are already covered in the legislative bill. Now we come to your provision for defraying expenses incident to the shipment of supplies. You ask \$300,000 for that.

Mr. DEGRAW. That was simply, Mr. Chairman, because we had no method whatever of getting at that. That was before the reorganization of the Department, and we could not possibly get any details that would show us what that might be. Since then we have figured it out. Mr. Covert will tell you what we have done on that subject now.

Mr. COVERT. By taking the weight of the stuff actually mailed as a basis, and securing from railroad companies the rates to different States and different parts of each State, and getting an average cost per 100 pounds for each State, and ascertaining from the Railway Mail Service the amount that has been paid for sending the same matter by mail, we have figured out that there is a net saving to the Department, I think, of ninety some thousand dollars. I have forgotten now; I have not those figures here; but the actual expense to the Department of shipping by freight the articles handled through the supply division we estimate would be in the neighborhood of \$80,000, instead of \$300,000.

Mr. DEGRAW. And incidentally to that, Mr. Chairman, we are now in negotiation with the railroad people with a view to getting, if possible, a flat State rate for shipments.

Mr. COVERT. I think it would be well if this item could stand for a few days. A committee has been appointed by the Postmaster-General to go into every feature of it, and that committee has not yet rendered its report.

The CHAIRMAN. But have you now a suggestion, in keeping with your modified estimates, as to how much less than \$300,000 you would recommend if the item remains as it is now drawn?

Mr. COVERT. I say \$80,000.

The CHAIRMAN. Instead of \$300,000.

Mr. COVERT. That is my opinion, but some differ with me. They say it ought to be \$100,000; but I think \$80,000 will cover it.

The CHAIRMAN. You stated at the outset of the hearing to-day

that in various items of the bill the modified estimates would result in a saving of \$10,500.

Mr. COVERT. This item was not included.

The CHAIRMAN. Not included?

Mr. COVERT. No, sir.

Mr. DEGRAW. That was irrespective of this item.

The CHAIRMAN. I thought I had kept an accurate account of the various decreases and increases, and that it resulted in a saving of \$9,000. Probably there is a thousand dollars somewhere that escaped me.

Mr. COVERT. Well, probably.

The CHAIRMAN. But that was not included in this?

Mr. COVERT. No, sir.

Mr. DEGRAW. This \$300,000 is undoubtedly excessive, Mr. Chairman, judging from the information we have been able to collect.

The CHAIRMAN. Now, I want to ask you this question: In the item for supplies in the rural-delivery service you have said nothing about striking out the word "freight."

Mr. COVERT. No, sir.

The CHAIRMAN. So that you would still have a right to pay for freight on the supplies of the rural-delivery service out of that appropriation?

Mr. COVERT. Yes, sir.

The CHAIRMAN. In the item for the city-delivery service supplies you have the word "freight?"

Mr. COVERT. Yes, sir.

The CHAIRMAN. So that you could still pay for freight out of that item?

Mr. COVERT. Yes, sir.

The CHAIRMAN. In the item of incidental expenses of the First Assistant Postmaster-General's Office the word "freight" occurs in regard to the supplies of that Office. Now, that limits it so that, so far as I see, your freight would probably be the freight on your stationery. Is not that about all that is left?

Mr. COVERT. Stationery, stamps, wrapping paper, twine, blanks, books, and so on.

The CHAIRMAN. What stamps?

Mr. COVERT. Miscellaneous rubber post-marking stamps, steel stamps, and other machines.

The CHAIRMAN. You figure that it is going to cost \$80,000 for freight to carry those supplies, other than the city-delivery and Presidential post-office supplies?

Mr. COVERT. Yes, sir. There are in the neighborhood of 160,000,000 envelopes going from Hartford, Conn., at present to all parts of the United States.

The CHAIRMAN. Stamped envelopes?

Mr. COVERT. Service envelopes, official envelopes—no; not stamped envelopes.

The CHAIRMAN. Oh, you mean the penalty envelopes?

Mr. COVERT. Just the plain penalty envelopes used in the service.

The CHAIRMAN. Well, that is part of the stationery item.

Mr. COVERT. No; it is not.

The CHAIRMAN. When I said a while ago "stationery," I meant envelopes and stationery. So that this freight item of \$80,000 which

you now estimate instead of \$300,000 would not cover any of the supplies for the rural or city-delivery service, because those items now contain the word "freight?"

Mr. COVERT. It would in some of those items; it would cover straps and satchels.

The CHAIRMAN. They are already covered in that item.

Mr. COVERT. The boxes are practically the only things now shipped by freight—boxes and posts.

The CHAIRMAN. No; what I call your attention to now is that the item in reference to city-delivery service, as it now stands, on your own recommendation, includes straps and baskets and satchels.

Mr. COVERT. But when we reduced that estimate to \$80,000, we assumed that the same articles that are shipped by freight now would be shipped by freight when that \$80,000 appropriation was made.

The CHAIRMAN. Under this last appropriation?

Mr. COVERT. No, sir; under the same one.

The CHAIRMAN. That is right. Then, as I say, the item for expenditures for freight on the supplies in the city-delivery service will not come out of this \$80,000 here?

Mr. COVERT. Yes, sir; a portion of them will, because the same articles only will be shipped by freight out of that appropriation then as are now shipped in that way, which means nothing but the letter boxes and posts. Every article that comes to the supply division in Washington—

The CHAIRMAN. Then let us strike out the word "freight" in those items and put all the freight in one item.

Mr. COVERT. If that is done I think that a small amount ought to be added to that \$80,000 to cover the shipping of letter boxes in both the rural and free delivery service now.

The CHAIRMAN. I am talking now with reference to this last item for freight, of \$80,000.

Mr. COVERT. Yes, sir.

The CHAIRMAN. Are you intending any charge against that for the shipment of any kind of post-office furniture by freight?

Mr. COVERT. Anything that would go from the Division of Supplies outside of letter boxes and posts.

The CHAIRMAN. Well, furniture would, would it not?

Mr. COVERT. That would include furniture, if any contract was made. As it is now—

The CHAIRMAN. Exactly; but you include furniture under your item of city and rural supplies, where you have also the word "freight."

Mr. COVERT. Yes.

The CHAIRMAN. And it would include furniture in Presidential offices where that already includes freight. I think, when you take into account the fact that the various provisions for freight in the shipment of supplies of the city and rural delivery service and of the Presidential post-offices will all be eliminated from any charge on this last item of freight, that you have got your \$80,000 too high. Would you not think so? How do you arrive at \$80,000?

Mr. COVERT. By just weighing the stuff that goes out from the supply division now and that has been going out.

The CHAIRMAN. Exactly; and some of that stuff that you refer to,

that goes out from the supply division, may have its freight charges paid out of these other items of appropriation?

Mr. COVERT. There is nothing that goes by freight from the division of supplies. It is only the stuff that goes from the contractor to the postmaster on which freight charges are paid now. Everything going from the supply division goes by mail.

The CHAIRMAN. Then this \$80,000 is based exclusively and wholly if I now understand you, upon the shipment by freight of those articles that now go by mail?

Mr. COVERT. Yes, sir.

Mr. DEGRAU. Yes, sir.

The CHAIRMAN. Heretofore, and during the past six months, have there not been items of the rural and city delivery service that have gone by mail.

Mr. COVERT. All the satchels and straps—everything of that description.

The CHAIRMAN. And they are included in these other items of supplies where provision is made for freight payments?

Mr. COVERT. Yes, sir. If they were to be sent by freight, as it now stands, they would be charged out of that.

The CHAIRMAN. Yes, sir. So that if any post-office furniture for offices of the first class should be shipped, the freight might be charged against that item of appropriation, on page 21, of \$45,000 for the incidental expenses of the city-delivery service, including freight and drayage on equipment, furniture, and supplies?

Mr. COVERT. It might be; yes, sir.

The CHAIRMAN. And then freight might be charged against any supplies that might be shipped for either the city-delivery service or the rural-delivery service?

Mr. COVERT. Out of those appropriations; yes, sir.

The CHAIRMAN. Then freight, again, would be provided out of this last item?

Mr. COVERT. Yes, sir; this estimate was gotten up on just the things that are shipped at present from the supply division by mail.

The CHAIRMAN. But these other items are shipped at present?

Mr. COVERT. By mail; yes.

The CHAIRMAN. By mail. because you have not as yet commenced to observe that law?

Mr. COVERT. Yes, sir.

Mr. STAFFORD. In these items that are now under the jurisdiction of the supply division, which you contemplate sending hereafter by freight, but which are now sent by mail, you would pay the freight yourself—the Department would pay the freight here rather than send an allowance to the postmaster for the payment of freight?

Mr. COVERT. Well, we have not decided as to the best method to pursue.

Mr. DEGRAU. That matter is now undergoing consideration.

Mr. STAFFORD. How much should this item be increased?

Mr. COVERT. I think \$85,000 will cover it.

The CHAIRMAN. You think \$85,000 will cover the whole freight business, then, if the word "freight" is stricken out of all the other items?

Mr. COVERT. Of the city and rural free delivery; yes, sir.

Mr. STAFFORD. That is, so far as your supply division is concerned?

Mr. COVERT. Yes, sir.

The CHAIRMAN. You can not give an estimate, so far as the allowances made to postmasters are concerned, on page 21?

Mr. COVERT. None whatever.

The CHAIRMAN. That covers it.

Mr. STAFFORD. If the law is mandatory requiring the Department not to send these articles through the mail, and you should not have an adequate allowance for sending them by freight, how would you then ship the articles?

Mr. DEGRAW. We could not ship them.

Mr. STAFFORD. Would you still have the right to send them by freight and call upon Congress for a deficiency appropriation, or should this item be sufficiently large to meet those contingencies?

Mr. DEGRAW. I think the item should be sufficiently large.

The CHAIRMAN. There would be a prohibition against that kind of deficiency as well as any other, would there not?

Mr. DEGRAW. Yes, sir.

Mr. STAFFORD. There would be no abuse in case this item for freight charges was increased?

Mr. DEGRAW. Oh, no; none whatever.

TRAVEL EXPENSE.

The CHAIRMAN. Mr. DeGraw, I observe that in the allowance of \$1,000 for the Fourth Assistant's office for travel and miscellaneous expenses, you estimate the same amount.

Mr. DEGRAW. Yes, sir.

The CHAIRMAN. In view of the fact that you only expended \$8.55 of this item last year, why do you think you will need that much?

Mr. DEGRAW. I expended more than that, Mr. Chairman.

The CHAIRMAN. (Reading:) "For the fiscal year 1906, \$8.55."

Mr. DEGRAW. Oh, 1906!

The CHAIRMAN. That is the last complete year we have.

Mr. SPILMAN. Certain travel came out of other appropriations in 1906 that would now come out of this appropriation. For instance, this supply item for rural delivery used to read "incidental expenses," and any travel incidental to rural delivery came out of that.

Mr. DEGRAW. We have had considerable travel this year. As I told you last year, you remember, I contemplated sending out for various things that I found we could very readily adjust if we could send proper persons to handle them. Mr. Spilman himself has made a number of quite extensive trips under this particular clause.

POSTAGE-STAMP CONTRACT.

Mr. SNAPP. Mr. DeGraw, did you have anything to do, personally, as Fourth Assistant Postmaster-General, with the letting of the contract for the printing of stamps for the ensuing four years?

Mr. DEGRAW. No, sir.

Mr. SNAPP. Did you have occasion at any time to take any part in determining to what bidder the contract should be let?

Mr. DEGRAW. The only matter in which I figured at all in regard to that contract was in answering a question put to me by the Postmaster-General as to what, in my opinion, would be the most economical and best way to decide on the bids submitted.

Mr. SNAPP. You then had the bids before you, did you?

Mr. DEGRAW. I did not have the bids before me, but the bids were explained.

Mr. SNAPP. Did you know the amounts of the different bids submitted by the different bidders, and the difference between them?

Mr. DEGRAW. I did at the time, but I could not quote the figures now. It was very small, I know—that is, the difference was very small—and was offset, as I recall, by the value of the machinery which was involved in the Bureau of Engraving and Printing.

Mr. SNAPP. When this matter was submitted to you by the Postmaster-General, was your attention drawn to the clause in the appropriation bill for the fiscal year ending June 30, 1907, providing "that no contract for the manufacture of adhesive postage stamps, special-delivery stamps, or books of stamps shall be made by the Government with any department or bureau of the Government below the cost of such work to the Government?"

Mr. DEGRAW. My recollection is that that clause was referred to.

Mr. SNAPP. Did you or the Attorney-General or the Postmaster-General, or any other officer of the Post-Office Department, investigate these bids, or any of them, to determine whether either one of them fell below the cost of such work to the Government?

Mr. DEGRAW. I did not, sir; but the statement was made that they did not fall below the cost.

Mr. SNAPP. By whom was that statement made?

Mr. DEGRAW. I do not believe I can tell you who it was. Several of the officers of the Department were present at this interview.

Mr. SNAPP. Will you indicate who they were? Was it a conference called by the Postmaster-General?

Mr. DEGRAW. Yes, sir; it was.

Mr. SNAPP. Was the Third Assistant Postmaster-General present?

Mr. DEGRAW. I think he was; yes. All four of the assistants were there; also Mr. Cochran and the chief clerk.

Mr. SNAPP. And at that time you gave it as your opinion that it would be advantageous to the Government that the contract should be let to the Bureau of Engraving and Printing?

Mr. DEGRAW. I did, sir.

Mr. SNAPP. Knowing, as I understood you to say, that the bid of that Bureau was larger than the bid of the other bidder?

Mr. DEGRAW. Slightly larger in the main; but had it been given to the other bidder the Government would have lost the value of some \$350,000 worth of machinery. Was not that it [turning to Mr. Cochran]? I have forgotten the figures.

Mr. COCHRAN. Yes; it was quite a large amount.

Mr. DEGRAW. And that machinery would have been null and void?

The CHAIRMAN. Was the expense of the purchase and installation of that machinery, originally made in taking up the last contract, taken into account in estimating the cost of that contract?

Mr. DEGRAW. I could not say as to that, sir.

Mr. SNAPP. I think that is all I care to ask Mr. DeGraw on this subject.

Mr. FINLEY. Mr. Chairman, one question: General, in deciding the question of the lowest bid, did you or not take into consideration that if an outside bidder secured the contract, the Government would have to place in the establishment of that bidder employees of the Government to oversee the work and to see that there were no leaks?

Mr. DEGRAW. Oh, unquestionably. All those things were considered—every one of them.

Mr. FINLEY. That would be an element of cost to the Government; would it not?

Mr. DEGRAW. Oh, yes.

Mr. FINLEY. In that view, was or was not the bid of the outside party lower than that of the Bureau of Engraving and Printing?

Mr. DEGRAW. As I recall it (though I will not say certainly about it; it was a very short conference) it was something like thirty odd thousand dollars; was it not, Mr. Cochran?

Mr. COCHRAN. The net saving, I think, was \$17,500 a year.

Mr. DEGRAW. That was it, I think, \$17,000 net.

Mr. COCHRAN. Including the cost of inspection and supervision.

Mr. DEGRAW. And as against that, I know we considered that the \$300,000 worth, or whatever that amount may be, of machinery, would be lost to the Government; and besides that the stamps would be going outside of the Government control, and would, of course, have to be supervised by the Government.

Mr. FINLEY. Did you count the cost of supervision in figuring out the \$17,000 net saving?

Mr. COCHRAN. Yes, sir; it was counted.

Mr. FINLEY. It was counted?

Mr. COCHRAN. Yes, sir.

Mr. DEGRAW. Yes, sir.

Mr. SNAPP. Did you take into consideration at this conference, before deciding this question, the value of the use by the Bureau of Engraving and Printing of the buildings belonging to the Government and now occupied by the Bureau of Engraving and Printing? Did you estimate that as one of the costs entering into the manufacture of stamps by the Bureau?

Mr. DEGRAW. No, sir; my recollection of that is that the Bureau if it did not get the contract, would immediately dispense with this machinery, and occupy that part of the building now occupied by the machinery for other purposes.

Mr. SNAPP. You understood, did you not, that the Bureau of Engraving and Printing is very much cramped for room, and that they would be very glad to occupy all of this room?

Mr. DEGRAW. Oh, yes, sir; I understood that.

Mr. SNAPP. For the printing of the securities and the money of the Government?

Mr. DEGRAW. Yes, sir.

Mr. SNAPP. I think that is all I wish to ask Mr. DeGraw.

Mr. DEGRAW. In addition to the reasons I had for giving my opinion, there was the fact of the stamps being securities of the Government, and the risk of taking them out of the Government service.

Mr. SNAPP. You agreed with the Postmaster-General, as I understand it, on that proposition. He makes the same statement in his annual report.

Mr. DEGRAW. Yes, sir.

Mr. SNAPP. Mr. Cochran, it appears from the statement of Mr. Madden, the Third Assistant Postmaster-General, that the specifications for the printing of the stamps used by the Post-Office Department are originally prepared in his office.

Mr. COCHRAN. Yes, sir; that is right.

Mr. SNAPP. And that they were then sent to you for your examination?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. Do you remember specifically of the specifications having been sent to you by the Third Assistant relating to the printing of stamps by the Government for the ensuing period of four years?

Mr. COCHRAN. I do.

Mr. SNAPP. After those specifications reached you, did you make or suggest any changes in them?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. Can you indicate to the committee what changes you suggested, or in what respect the changes you suggested were?

Mr. COCHRAN. They were not any very material changes; something in regard to the methods of packing and wrapping, and the quality of the paper on which the stamps were to be printed; and we had with us there the assistant chief of the stamp division, who came over after the specifications were received, and we conferred with him as to certain things that might be an improvement; and the specifications as finally agreed on were not changed to any very great extent.

Mr. SNAPP. By whom were the specifications finally agreed upon?

Mr. COCHRAN. By the Third Assistant's office and myself.

Mr. SNAPP. After that, then, did you, as purchasing agent, advertise for proposals?

Mr. COCHRAN. I did.

Mr. SNAPP. And after the advertisement was made, was the advertisement withdrawn?

Mr. COCHRAN. Yes, sir; it was withdrawn, and the term of the present contract was extended.

Mr. SNAPP. By whom was the present contract extended?

Mr. COCHRAN. By the Postmaster-General.

Mr. SNAPP. Until the 1st of February, 1907?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. After the first advertisement was withdrawn, were any further changes made in the specifications?

Mr. COCHRAN. There was one, Mr. Snapp, made at the suggestion of the American Bank Note Company.

Mr. SNAPP. Can you say now what the change was?

Mr. COCHRAN. Under the specifications as originally drawn, there was a possibility that the contract might be divided; and they objected to that, and I thought that the objection was sound, and it was changed so as to meet that.

Mr. SNAPP. The change made then was such as would make the contract go to one bidder?

Mr. COCHRAN. Go to one bidder; yes, sir.

Mr. SNAPP. And remove the danger of its being divided?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. That was all the change?

AMERICAN BANK NOTE COMPANY,
New York, September 12, 1906.

The POSTMASTER-GENERAL OF THE UNITED STATES,
Washington, D. C.

SIR: Referring to the proposal for postage stamps and books of stamps for the Post-Office Department for the four years from November 1, 1906, to October 31, 1910.

Presuming that it is the intention of the Department to have a fair and open competition in the matter of furnishing these supplies, we beg to call your attention to several points in these specifications which nullify and make impossible any competition:

First. Under these specifications the bids are to be opened on the 20th of September, and shortly thereafter the award to be made; the first delivery of stamps under this contract to be made November 1, 1906. This leaves, virtually, one month in which a new contractor must organize his force, equip his plant, and actually commence deliveries of all of these supplies as required. Accompanying the bid must be a certified check for \$20,000. If the contract was awarded to a new contractor it would simply mean that he would have to forfeit his \$20,000, as you have asked the impossible. In other years the bids have been called for some time in July, and plenty of time has always been given in which the new contractor could prepare to carry out his duties.

Second. Item 1, on page 9 of the specifications, and Item 3, on page 10, should be consolidated. It is not fair to ask anyone to bid on all these supplies, making them go to the expense which they necessarily have to do in supplying special premises and quarters for Governmental employees, and then award them only the manufacture of the special-delivery stamps, the postage-due stamps, and the mere binding of the books of stamps. In order to properly protect himself against simply getting the award of item 3, a prospective contractor must bid very high on this item; and consequently the advantage of competition is lost to the Government.

Item 2. B, C, and D, on page 9, is such an indefinite quantity as to render it impossible to make any intelligent bid.

It is hardly necessary for us to point out to you that this scheme of surcharging the postage stamps with the name of the local post-offices entails such an enormous amount of detailed work as to render it almost impracticable. While not questioning the judgment as to whether stamps surcharged with the name of the post-office would or would not be the best way to overcome the difficulty which confronts the Post-Office Department, we suggest that the expense and trouble entailed in the sorting and keeping of a proper stock on hand for these innumerable post-offices more than offset any advantage which might accrue from the plan; and while entirely out of our province, would respectfully suggest that some other way be found out of the difficulty.

These three modes or manners of bidding—each of them calling for a different manner of execution, and which may be awarded in part or in whole to the successful bidder or bidders; and there being for some of the stamps twenty operations and for others twenty-five operations between the awarding of the contract and delivery of the stamps—make it impossible for the bidder to know how to make up a reasonable estimate of his cost so as to make a fair tender to the Department.

To sum up—

First, and absolutely necessary: In order that any tenders may be received by the Department, at least three months' time must be given from the date of signing the contract to the first delivery of stamps; and item 3, on page 10, must be consolidated with item 1, and the award made for all of the stamps, or none.

Second, if it is determined to ask for an estimate on the cost of surcharging the postage stamps, such surcharging, except as called for by item B, of article 2, where the name of the post-office is engraved in the plate, should be called for separately, and refer only to such surcharging. In other words, all the postage stamps should be printed by one contractor, and either surcharged by him or delivered to another contractor to be surcharged; but a prospective contractor should not be called upon to imperil his position by being compelled to add to that which he can estimate on something which is so indefinite as to cause him to merely make a guess at the result.

Again, any new contract must start at least with the same designs as those now in use, and this point should be made clear—that he would not be called upon to commence his contract with an entirely new set of engravings, the preparation of which might take his entire three months. The specifications as issued in 1902 were simple and comprehensive; and under these specifications any contractor could present an intelligent bid. We therefore take the liberty of suggesting that this form of proposal should be followed in the present instance.

If these specifications (1906) as issued have to be followed, there can be no competition for the reason that no individual or corporation could comply with their requirements in the limited time allowed therefor. We therefore request that we be notified in a sufficient time before the 20th as to the intentions of the Department.

WARREN L. GREEN.

POST-OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER-GENERAL,
Washington, January 15, 1907.

HON. JESSE OVERSTREET,
*Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.*

DEAR SIR: In response to a request made by Representative Snapp yesterday, I have the honor to transmit herewith copy of letter from Warren L. Green, president of the American Bank Note Company, New York, N. Y., dated September 12, 1906, and addressed to the Postmaster-General, in which he requested postponement of the date for receiving proposals for the manufacture of postage stamps and books of stamps, and also made certain suggestions for amendment of the specifications.

Very respectfully,

EDWIN C. MADDEN,
Third Assistant Postmaster-General.

MR. COCHRAN. I think there was a slight change elsewhere, Mr. Snapp, but that was the only thing of consequence. I could furnish it exactly; but that is the one that made an impression on me so that I recall it clearly.

MR. SNAPP. And thereupon you advertised again for new bids?

MR. COCHRAN. Thereupon we advertised again for new bids.

MR. SNAPP. Who submitted bids under that second advertisement?

MR. COCHRAN. The Bureau of Engraving and Printing and the American Bank Note Company.

MR. SNAPP. Now, you say the Bureau of Engraving and Printing submitted a bid?

MR. COCHRAN. Yes, sir.

MR. SNAPP. I understand that that is a bureau of the Treasury Department.

MR. COCHRAN. Yes, sir.

MR. SNAPP. Under whose name was this bid of the Bureau of Engraving and Printing submitted?

MR. COCHRAN. Under the name of the Director of the Bureau.

MR. SNAPP. That is, the bid, the proposal, was signed by the Director of the Bureau of Engraving and Printing, was it?

MR. COCHRAN. That is my recollection.

MR. SNAPP. Did you receive and open those bids?

MR. COCHRAN. Yes, sir; at least, they were opened in my presence by a committee appointed for that purpose. I received them, however.

MR. SNAPP. Who appointed the committee?

MR. COCHRAN. The Postmaster-General, on my recommendation.

MR. SNAPP. Is it customary to appoint committees to pass upon proposals of this character?

MR. COCHRAN. Yes, sir; always.

MR. SNAPP. Of how many do the committees consist?

MR. COCHRAN. Usually three.

MR. SNAPP. How many did this committee consist of?

MR. COCHRAN. Three in this instance.

MR. SNAPP. Who were they?

MR. COCHRAN. Mr. Joe P. Johnson, post-office inspector in charge; Mr. W. P. Zantzinger, in charge of the envelope section of the supply division; and Mr. W. C. Fitch, the assistant chief of the stamp division.

Mr. SNAPP. Then, really, the extent of your duties in connection with this and similar cases, as purchasing agent, was to make the advertisement, and have it inserted for publication in the proper way, and receive and open the bids, while the real merits of the bids and proposals are passed upon by a committee appointed by the Postmaster-General? Is that it?

Mr. COCHRAN. Yes, sir; that is always the case. The regulations provide, however, Mr. Snapp, that the report of the committee shall be made to me and to the Postmaster-General, and that I shall make such recommendations to the Postmaster-General thereon as I may see proper.

Mr. SNAPP. After receiving and opening the bids, did you pass upon the merits of the proposals?

Mr. COCHRAN. I approved the report of the committee, and transmitted it to the Postmaster-General.

Mr. SNAPP. Then, as a matter of fact, you did not exercise your judgment at all in passing upon these proposals, but merely, you might say, "O. K'd" the report of the committee, and submitted it to the Postmaster-General?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. It appears from the report of the Postmaster-General that it was recommended by two of this committee that the proposal of the American Bank Note Company for supplying postage stamps and books of stamps of the same designs and denominations as those now being manufactured and supplied to the Post-Office Department by the Bureau of Engraving and Printing be accepted, while the third member recommended that the contract be awarded to the Bureau of Engraving and Printing. Did this committee make that report to you?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. Or to the Postmaster-General?

Mr. COCHRAN. Under the regulations they are required to make it to both of us. They did make it to me.

Mr. SNAPP. Do you mean that they made one to you and a duplicate to the Postmaster-General?

Mr. COCHRAN. Well, the original, I think, is for the Postmaster-General, and the duplicate for me.

Mr. SNAPP. Was it in writing?

Mr. COCHRAN. It was in writing.

Mr. SNAPP. Have you it with you?

Mr. COCHRAN. No, sir.

Mr. SNAPP. Will you supply a copy for insertion in the record?

Mr. COCHRAN. I will if the Postmaster-General will permit me. I presume he will.

Mr. SNAPP. Is it on file in your office?

Mr. COCHRAN. Yes, sir; it is in my office.

Mr. SNAPP. Mr. Chairman, I have asked Mr. Cochran to supply for the record a copy of the report of the committee that reported to him upon the proposals for the printing of stamps.

The CHAIRMAN. You have that information at the office?

Mr. COCHRAN. I have that information.

The CHAIRMAN. Then will you be kind enough to transmit it by letter to the committee?

Mr. COCHRAN. I will, if the committee so directs.

Mr. SNAPP. In connection with this contract, did this committee make to you or the Postmaster-General any other report? Did they make more than one report?

Mr. COCHRAN. There was a minority report, Mr. Snapp—a dissenting report.

Mr. SNAPP. The Postmaster-General's report says that two recommended that the proposal of the American Bank Note Company be accepted, while the third member recommended that the contract be awarded to the Bureau of Engraving and Printing. Do you mean that that is the only report that this committee made?

Mr. COCHRAN. If you will just let me give you the history of that case, Mr. Snapp, I think I can perhaps get at it in a little better way.

Mr. SNAPP. I will be very glad to have you do so. That is what I want.

Mr. COCHRAN. I furnished you a copy of the specifications.

Mr. SNAPP. Yes.

Mr. COCHRAN. Have you that within reach?

(Mr. Snapp produced the copy of the specifications above referred to.)

Mr. COCHRAN. You will notice that the advertisement and specification calls for bids to be rendered in two forms, for two different classes of work. That is, there is bid 1, asking for the printing and engraving of stamps as at present. There is also bid 2, asking for prices on printing stamps from special plates for the 26 largest post-offices, with the names of the offices engraved in the plates. Another part of the bid asks for figures on over-printing on the remaining Presidential offices, approximately six thousand (5,900, I believe it is), the names of those offices from electrotpe plates.

The entire committee recommended that the proposal of the American Bank Note Company on bid 2 be accepted. They agreed on that. But then, in the same report, they said that if it should be decided that it was not for the interest of the service to have this change made in the printing of stamps, then two of the committee recommended that the bid of the American Bank Note Company under bid 1 be accepted; and that was where the dissent came in. The third member of that committee recommended that it go to the Bureau.

Mr. SNAPP. After the report of the committee, what was done by the officers of the Post-Office Department in determining which bid should be accepted? I understand you to say that you did not decide it. Who did decide what bid should be accepted?

Mr. COCHRAN. The Postmaster-General.

Mr. SNAPP. Did you have any part in that?

Mr. COCHRAN. Yes, sir; somewhat.

Mr. SNAPP. Who else took part in that?

Mr. COCHRAN. The Postmaster-General called a conference of the officers of the Department to discuss the matter.

Mr. SNAPP. And at that conference it was decided to accept one of the bids of the Bureau of Engraving and Printing?

Mr. COCHRAN. It was not decided at that time. The decision of the Postmaster-General was made after that.

Mr. SNAPP. After the conference?

Mr. COCHRAN. Yes, although it was rather plainly indicated what the decision would be; but it was not made then.

Mr. SNAPP. Do you know whether a contract has been entered into with the Bureau of Engraving and Printing?

Mr. COCHRAN. Yes, sir.

Mr. SNAPP. Which bid of the Bureau of Engraving and Printing was finally accepted?

Mr. COCHRAN. Bid 1, for the printing of stamps as at present.

Mr. SNAPP. Then there is no contract with the Bureau for the printing of stamps as contemplated by their second bid?

Mr. COCHRAN. No, sir.

Mr. SNAPP. Is the committee to understand from that that the plan of printing stamps as contemplated in bid 2—that is, issuing stamps which should bear the name of the office at which they are sold—has been abandoned?

Mr. COCHRAN. Yes, sir; at least temporarily.

Mr. SNAPP. Was any investigation made that you know of, by anybody connected with the Post-Office Department, to ascertain whether the acceptance of this bid was a violation of that clause of the last appropriation act for the fiscal year ending June 30, 1907, reading as follows:

That no contract for the manufacture of adhesive postage stamps, special-delivery stamps, or books of stamps shall be made by the Government with any Department or Bureau of the Government below the cost of such work to the Government.

Mr. COCHRAN. The entire matter was submitted to the Assistant Attorney-General for the Post-Office Department for his opinion.

Mr. SNAPP. Who submitted it to him?

Mr. COCHRAN. The Postmaster-General.

Mr. SNAPP. Did the Assistant Attorney-General give the Postmaster-General any opinion on this that you know of?

Mr. COCHRAN. Yes, sir; he did give him an opinion.

Mr. SNAPP. Did that reach your office?

Mr. COCHRAN. I think I have a copy of it.

Mr. SNAPP. Can you say, briefly, what the opinion was?

Mr. COCHRAN. It was directed mainly not to that section of the statute but to another. In the second paragraph of the act of April 28, 1904, creating the office of purchasing agent, is this language—

The purchasing agent, in making purchases of supplies necessary for the Post-Office Department, shall advertise as now provided by law, and award contracts for such supplies to the lowest responsible bidder in pursuance of existing law.

And it was at my suggestion, when I found that the Postmaster-General was considering the advisability of not awarding this contract to the lowest bidder, that it was directed that the opinion of the Assistant Attorney-General be gotten on that clause, as to what effect it would have with reference to giving it to the bidder who was not the lowest bidder.

The CHAIRMAN. Was there any suggestion for any opinion with reference to the provision in the current law which Mr. Snapp read to you, or was it given any consideration at all?

Mr. COCHRAN. I considered that it made it necessary for me to advertise and invite bids, and I did. When the bids were received, and they were acted on, I supposed that that part of the law had been complied with; that there had been competition.

The CHAIRMAN. I ask if you know whether any opinion of the Assistant Attorney-General for the Post-Office Department or of anybody else was solicited with respect to the operation of the statute which Mr. Snapp read?

Mr. COCHRAN. I do not think so; at least, I do not recall it.

The CHAIRMAN. As far as you know, no attention was paid to that statute?

Mr. COCHRAN. I tried to pay attention to it by making the advertisement and soliciting bids.

The CHAIRMAN. Well, this provision that Mr. Snapp read—

Mr. COCHRAN. You mean about being below the cost?

Mr. SNAPP. Prohibiting the entering into contracts below the cost of such work to the Government.

Mr. COCHRAN. Yes; that was given attention in this way: Mr. Sullivan, the Director, certified in his bid and as a part of his bid that it was not below the cost of production.

The CHAIRMAN. Who is the gentleman whose name you have just given?

Mr. COCHRAN. He is the Director of the Bureau of Engraving and Printing.

Mr. SNAPP. Will you furnish to the committee, for the record, a copy of this opinion by the Assistant Attorney-General; also a copy of the bids by the American Bank Note Company and by the Bureau of Engraving and Printing, together with the present contract price with the Bureau of Engraving and Printing?

Mr. COCHRAN. Yes, sir. I have the prices bid by the American Bank Note Company and the Bureau of Engraving and Printing and also the present prices here, and submit them; and I will send you a copy of the opinion asked for.

Mr. SNAPP. Also the statement of Mr. Sullivan, the Director of the Bureau of Engraving and Printing, that you have spoken of, that the bids were not below the cost of production to the Government.

Mr. COCHRAN. Do you want a copy of that?

Mr. SNAPP. A copy of that, also.

(The papers above referred to, which were produced by Mr. Cochran at this session, are as follows; it being understood that the other papers asked for will be supplied later):

[Price per thousand.]

Description of bid.	Bid of American Bank Note Company.	Bid of Bureau of Engraving and Printing.	Present prices.
Bid I.			
(a) Ordinary postage stamps of all denominations (including stamps for stamp books), for all post-offices, to be printed as at present.	\$0.055	\$0.057	\$0.05742
(b) Special delivery stamps, for all post-offices, to be printed as at present.	.10	.156	.15505
(c) Postage-due stamps, for all post-offices, to be printed as at present.	.055	.078	.07756
(d) Books of stamps (price to be exclusive of the postage stamps contained therein):			
12-stamp size.	2.00	2.49	2.8242
24-stamp size.	2.50	3.24	3.4520
48-stamp size.	3.50	4.11	4.4603
Bid II.			
(a) Ordinary postage stamps of the 1-cent and 2-cent denominations (including stamps for stamp books), for the 26 largest post-offices, to be printed from special plates bearing the names of these offices, respectively, including the abbreviated names of the States in which they are located cut in the dies as part of the stamp design.		.059	
(b) Ordinary postage stamps of other denominations than the 1-cent and 2-cent, for the 26 largest post-offices, and ordinary postage stamps of all denominations (excluding stamps for stamp books) for the remaining post-offices of the Presidential class, in round numbers about 5,900 offices, such stamps to be over-printed from electrotpe plates across the face with the names of these post-offices, respectively, and the abbreviated names of the States in which they are located.	.075	No bid.	
(c) Ordinary postage stamps of all denominations (including stamps for stamp books), for post-offices of the fourth class, and stamps for stamp books for all Presidential post-offices, except the 26 largest, to be printed as at present.	.055	.057	
(d) Special-delivery stamps, for all post-offices, to be printed as at present.	.10	.156	
(e) Postage-due stamps for all post-offices, to be printed as at present.	.055	.078	
(f) Books of stamps (price to be exclusive of the postage stamps contained therein):			
12-stamp size.	2.00	2.49	
24-stamp size.	2.50	3.24	
48-stamp size.	3.50	4.11	

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 15, 1907.

Hon. JESSE OVERSTREET,
Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.

SIR: In compliance with your request, through the purchasing agent, for certain papers relating to the postage-stamp contract, I transmit herewith copies of the following documents:

1. Letter of Thomas J. Sullivan, Director of the Bureau of Engraving and Printing, which accompanied the bid of the Bureau for printing postage stamps and books of stamps under advertisement of September 28, 1906.

2. Copy of report of committee appointed under Order No. 1321 to open and consider bids.

3. Copy of opinion of the Assistant Attorney-General for the Post-Office Department, dated November 17, 1906.

4. Copy of memorandum of the Postmaster-General, dated November 22, 1906.

Very respectfully,

GEO. B. CORTELYOU,
Postmaster-General.

TREASURY DEPARTMENT,
BUREAU OF ENGRAVING AND PRINTING,
October 25, 1906.

The POSTMASTER-GENERAL,
Washington, D. C.

SIR: Pursuant to your advertisement of September 28, 1906, I have the honor to submit the accompanying proposal for furnishing postage stamps and books of stamps to your Department for the four years from February 1, 1907, to January 31, 1911. Under this proposal the stamps will be furnished substantially in accordance with present methods under the agreement between the Postmaster-General, dated the 31st day of October, 1902, and in compliance with the specifications of your advertisement so far as they are applicable to this Bureau. The rates proposed are not below the cost of the work to the Government in this Bureau. No rate is proposed for item (b) under Bid II for overprinting from electrotype plates across the face of stamps the names of post-offices, for the reason that this Bureau has not the space available to accommodate the presses and electrotypes necessary to the execution of this work, nor could it obtain the necessary space for such purposes within a reasonable time.

Respectfully,

THOS. J. SULLIVAN, *Director.*

OCTOBER 27, 1906.

HON. GEORGE B. CORTELYOU,
Postmaster-General.

SIR: The undersigned committee, appointed by your order No. 1321, dated October 23, 1906, to open and examine proposals for furnishing postage stamps and books of stamps for the four years from February 1, 1907, to January 31, 1911, under advertisement dated September 28, 1906, and to make recommendations regarding the award of contract for such supplies, has the honor to report that it met in the office of the purchasing agent on October 25, 1906, at 2 p. m., and after receiving all proposals from the purchasing agent proceeded to open, read, and record them, the same being two in number. The proposals received were as follows, the figures being the price per 1,000:

	Proposal of American Bank Note Co.	Proposal of Bureau of Engraving and Printing.
BID I.		
(a) Ordinary postage stamps of all denominations (including stamps for stamp books), for all post-offices, to be printed as at present	\$0.055	\$0.057
(b) Special-delivery stamps, for all post-offices, to be printed as at present.....	.10	.156
(c) Postage-due stamps, for all post-offices, to be printed as at present.....	.065	.078
(d) Books of stamps (price to be exclusive of the postage stamps contained therein):		
12-stamp size.....	2.00	2.49
24-stamp size.....	2.50	3.24
48-stamp size.....	3.50	4.11
BID II.		
(a) Ordinary postage stamps of the 1-cent and 2-cent denominations (including stamps for stamp books), for the 26 largest post-offices, to be printed from special plates bearing the names of these offices, respectively, including the abbreviated names of the States in which they are located, cut in the dies as part of the stamp design.....	.058	.059
(b) Ordinary postage stamps of other denominations than the 1-cent and 2-cent, for the 26 largest post-offices, and ordinary stamps of all denominations (excluding stamps for stamp books) for the remaining post-offices of the Presidential class, in round numbers about 5,900 offices, such stamps to be overprinted from electrotype plates across the face with the names of these post-offices, respectively, and the abbreviated names of the States in which they are located.....	.075	No bid.
(c) Ordinary postage stamps of all denominations (including stamps for stamp books), for post-offices of the fourth class, and stamps for stamp books for all Presidential post-offices, except the 26 largest, to be printed as at present.....	.055	.057
(d) Special-delivery stamps, for all post-offices, to be printed as at present....	.10	.156
(e) Postage-due stamps, for all post-offices, to be printed as at present.....	.065	.078
(f) Books of stamps (price to be exclusive of the postage stamps contained therein):		
12-stamp size.....	2.00	2.49
24-stamp size.....	2.50	3.24
48-stamp size.....	3.50	4.11

For the estimated quantities required for the four years, these proposals produce the following results under "Bid I" for stamps for all offices, to be printed as at present:

	American Bank Note Co.	Bureau of Engraving and Printing.
(a) Ordinary postage stamps.....	\$1,722,941.00	\$1,785,593.40
(b) Special-delivery stamps.....	6,460.00	10,077.60
(c) Postage-due stamps.....	8,673.50	12,300.60
(d) Books of stamps:		
12-stamp size.....	108,886.00	135,563.07
24-stamp size.....	36,630.00	47,472.48
48-stamp size.....	17,685.50	20,767.83
Total.....	1,901,276.00	2,011,774.96

The Bureau of Engraving and Printing failed to bid on item *b* under "Bid II," which was for ordinary postage stamps of other denominations than the 1-cent and 2-cent for the 26 largest post-offices, and ordinary postage stamps of all denominations (excluding stamps for stamp books) for the remaining Presidential offices, to be overprinted with the names of such post-offices. Eliminating this item, the comparison between the bids for the remaining items under "Bid II," for the estimated quantities required for four years, are as follows:

	American Bank Note Co.	Bureau of Engraving and Printing.
(a) Ordinary stamps from special plates for 26 largest offices.....	\$720,377.40	\$732,797.70
(c) Ordinary stamps for offices of fourth class and for stamp books....	292,198.50	302,823.90
(d) Special-delivery stamps.....	6,460.00	10,077.60
(e) Postage-due stamps.....	8,673.50	12,300.60
(f) Books of stamps:		
12-stamp size.....	108,886.00	135,563.07
24-stamp size.....	36,630.00	47,472.48
48-stamp size.....	17,685.50	20,767.83
Total.....	1,190,910.90	1,261,803.18
Add amount of item <i>b</i> , overprinted stamps.....	1,019,490.00	
Total.....	2,210,400.90	

From the foregoing it appears that the special and overprinted stamps for Presidential offices would increase the cost, as compared with the proposal of the American Bank Note Company for stamps printed as at present, in the sum of \$309,124.90 during the four years of the contract term, or an average of \$77,281.22 per annum. As compared with the proposal of the Bureau of Engraving and Printing for stamps printed as at present, the special and overprinted stamps would increase the cost \$198,625.92 during the four years of the contract term, or \$49,656.48 per annum.

In your last annual report you discussed at some length the report of the commission which recommended that alternative bids be solicited at this time and that surcharged or overprinted stamps, or stamps printed from special plates for Presidential post-offices, be adopted if reasonable bids were secured. The following is from your report:

"In their inquiry it developed that during the eight years ended March 31, 1905, the receipts of 131 Presidential offices have been inflated in amounts sufficient to increase the salaries of the postmasters in sums varying from \$100 to \$1,000 a year. Some cases ran several years before detection, so that while but 131 offices were affected the total number of salaries thus increased was 295, the increase amounting to \$59,200, which the postmasters were required to refund. The total irregular sales amounted to \$1,109,428. The practice was at its worst during the four quarters ended March 31, 1904, when 62 offices were involved, the irregular sales thereat amounting to \$250,135 and the increased salaries which would have resulted therefrom amounting to \$11,800. The average increase in receipts for the entire eight years required to increase salaries \$100 each was \$1,991 and for the last year \$2,163. As it is estimated that for every \$100 additional salary allowed postmasters on account of irregular sales \$1,000 additional expense for clerks, rent, fuel, light, miscellaneous, and free-delivery service is involved, the Government would have been mulcted during the eight years in the sum of \$651,200 had not the frauds been detected."

It is believed that there are many cases of inflation of sales undetected which would be prevented or speedily called to the attention of the Department if special stamps

were provided for each Presidential post-office. The use of stamps as currency would also be discouraged, and it would reduce to the minimum the temptation to burglarize Presidential offices. The sum saved during eight years by reason of the discovery of the frauds mentioned in the paragraph quoted averaged \$81,400 per annum, which is over \$4,000 more than the additional cost per annum under the bids under discussion for special and overprinted stamps.

An inquiry at Chicago in 1903 through thirty-five business houses developed the fact that \$1,300,000 in stamp remittances was received by them in the twelve months of 1902, from which it was calculated that on an average \$2,000,000 worth of stamps are received each year in Chicago as remittances. If half of that sum is credited as sales to smaller Presidential offices, the cost to the Government in salaries and allowances based thereon would be more than the added cost of special and overprinted stamps. We are confident the adoption of such stamps would result annually in saving to the revenues a sum largely in excess of the expense involved. We therefore unanimously recommend that the proposal of the American Bank Note Company, of New York, under "Bid II," which includes ordinary stamps of the 1-cent and 2-cent denominations (including stamps for stamp books) for the twenty-six largest post-offices to be printed from special plates bearing the names of the offices as a part of the stamp design, and the overprinting of ordinary stamps of other denominations for such offices and all ordinary stamps for the remaining Presidential post-offices, be accepted.

While unanimous in the foregoing recommendation, we have deemed it proper to consider the proposals under "Bid I" for stamps printed as at present for your information in the event you do not approve our first recommendation.

The proposal of the American Bank Note Company for the estimated quantity for the contract term of four years is \$110,498.98 less than that of the Bureau of Engraving and Printing, or \$27,624.74 per annum. The expense to the Post-Office Department at the present time for supervision of the printing of stamps at the Bureau of Engraving and Printing is \$1,400, that being the salary of the clerk detailed to supervise the filling of requisitions. In 1894, the last year that stamps were furnished by a private contractor away from the seat of government, the appropriation for the stamp agent, his clerical force and expenses, was \$12,000. We are inclined to think the appropriation of a like sum would now be necessary to supervise the work if the contract went to the American Bank Note Company. Deducting from \$12,000 the \$1,400 expense for the clerk at the Bureau of Engraving and Printing, leaves \$10,600 as the added expense to the Government, which would reduce the amount saved by accepting the lowest bid to \$17,024.74 per annum.

The stamps have been printed at the Bureau of Engraving and Printing for twelve years and we are advised that the printing plant installed for this special purpose represents an investment of approximately \$150,000, which would be rendered useless if the work was taken away. It is said that 392 people are employed in this work, but we have information that all of that number are not employed exclusively in the stamp department. The Director thinks he could eventually find work in other branches of the Bureau for this force, but many would have to be furloughed for a time and would suffer a loss.

While realizing the advantage of having the work done under the immediate supervision of the Department officials and the force of the argument in favor of the Government printing not only the currency but all Government issues the equivalent of money, a majority of your committee are of the opinion that they would not be warranted in disregarding a bid made in good faith which is as much lower as in this instance, and they therefore recommend, in the event you conclude that the stamps shall continue to be printed as at present that the proposal of the American Bank Note Company under "Bid I" be accepted. Mr. Fitch does not concur in this recommendation and will attach a minority report hereto.

Very respectfully,

JOE P. JOHNSTON,
W. E. FITCH,
W. P. ZANTZINGER,
Committee.

Approved, October 27, 1906.

W. E. COCHRAN,
Purchasing Agent.

OCTOBER 27, 1906.

The POSTMASTER-GENERAL.

SIR: While concurring in the recommendation of Mr. Johnston and Mr. Zantzinger that the postage stamp contract be awarded the American Bank Note Company under its Bid II, I dissent from the alternative recommendation that if the Postmaster-General concludes not to issue stamps bearing the names of postoffices as contemplated by Bid II the contract be awarded the American Bank Note Company under its Bid I.

I believe the net difference of \$17,000 a year in favor of the American Bank Note Company is not sufficient to warrant the taking of this work away from the Government bureau. Postage stamps are the equivalent of money; they are readily negotiable, and, in fact, are defined by law (Sec. 5413, Rev. Stat. U. S.) to be "securities of the United States." As a matter of general policy all "securities of the United States." should be made by the Government itself, and this is quite as important for postage stamps as for currency, Government bonds, and internal-revenue stamps.

I have concurred in the recommendation to award the contract to a private concern under Bid II only because the Bureau of Engraving and Printing failed to submit a proposal for the overprinting of stamps, and because I am familiar with the important objects sought from such overprinting through having served on the committee appointed by the Postmaster-General which recommended it. The chief aim of Government manufacture is excellence of execution and the most perfect security against error and loss. These features can be developed in the highest degree without the necessity of considering the effect on profits, as a private contractor must do. Absolute accuracy in the issue of stamps is of great importance, and in this respect, as well as in quality of the product, the Department's experience with the Bureau of Engraving and Printing has been decidedly more satisfactory than, for example, with the private contractors for postal cards and stamped envelopes.

A saving of \$17,000 a year is insignificant compared with these matters; it amounts to about 3.5 per cent on the total estimated expenditure, and the advantages of Government manufacture certainly seem well worth so small a premium.

The sacrifice of the Bureau's postage-stamp plant, which cost about \$150,000, is another argument against making a change for the purpose of saving \$17,000 in the yearly expenditure. Loss of plant would not be considered in favor of a private contractor under such circumstances, but it is obviously a very different matter where the old contractor is a Government bureau, and should be taken into account as tending to offset a lower bid.

The Director of the Bureau of Engraving and Printing told us that if the contract were taken away his postage-stamp equipment would be dismantled and the space devoted to the other work of the Bureau, which requires increased facilities. In that event, he suggested, the Bureau could not again become a competitor for the stamp contract, and if the American Bank Note Company's plant remained the only one in the country equipped to handle the work, the absence of possible competition would enable the company to greatly increase its price for subsequent contracts. Eventually this might put the Government to heavy loss for its stamps.

The reasons for continuing the Bureau of Engraving and Printing as postage-stamp contractors seem to me of very great importance, while the only argument in favor of the American Bank Note Company is its slightly lower proposal. I have the honor, therefore, to recommend that if the issue of stamps bearing the names of post-offices is not decided upon, the contract be awarded to the Bureau of Engraving and Printing under its Bid I, as authorized by act of Congress approved April 21, 1902 (p. 117, part 1, volume 32, Stat. L., U. S.):

"*Provided*, That hereafter, when in the opinion of the Postmaster-General the interests of the Post-Office Department require it, the manufacturing of special delivery and adhesive postage stamps may be done by the Treasury Department (Bureau of Engraving and Printing), in conformity with an agreement satisfactory to both the Postmaster-General and the Secretary of the Treasury."

It may be added that the stamps will not cost the Post-Office Department more than is paid now if the contract is awarded to the Bureau of Engraving and Printing. On the contrary, at the Bureau's new proposal it is estimated that the stamps and stamp books will cost about \$9,000 a year less than at the prices now being paid.

Respectfully submitted,

W. C. FITCH.

[Memorandum.]

NOVEMBER 17, 1906.

In the matter of the letting of the contract for postage stamps four statutory provisions are to be considered. These are section 3709 of the Revised Statutes as amended, a provision of the act of April 21, 1902, chapter 563 (32 Stats., 117); a provision of the act of April 28, 1904, chapter 1759 (33 Stats., 440), and a proviso in the act of June 26, 1906, chapter 3546 (34 Stats., 475).

By section 3709 Revised Statutes as amended, it is provided:

"All purchases and contracts for supplies or services, in any of the Departments of the Government, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service. * * *

In an opinion given by Attorney-General Griggs under the date of February 11, 1898 (22 Op. Atty. Gen., 40), it was held that postage stamps are supplies within the meaning of section 3709 Revised Statutes as amended, and, accordingly, that contracts for furnishing postage stamps to the Post-Office Department must be let upon public advertisement, as required by the statute.

The provision in the act of April 21, 1902, *supra*, is—

"That hereafter, when in the opinion of the Postmaster-General the interests of the Post-Office Department require it, the manufacturing of special-delivery and adhesive postage stamps may be done by the Treasury Department (Bureau of Engraving and Printing), in conformity with an agreement satisfactory to both the Postmaster-General and the Secretary of the Treasury."

The plain purpose of this provision is to except postage stamps from the operation of section 3709 Revised Statutes as amended, requiring all purchases and contracts for supplies to be made upon public advertisement and competitive bids submitted in response to such advertisement. That such was the intention of the provision is shown by the following statement having reference to such provision, included in the report of the managers on the part of the House of Representatives of the postal service appropriation bill in conference:

"Amendment No. 38 permits the Postmaster-General to have special-delivery and adhesive postage stamps manufactured in the Bureau of Engraving and Printing, without advertising for bids therefor, and your committee agreed to the same." (Cong. Rec., vol. 35, part 4, p. 4113.)

The act of April 28, 1904, creating the office of purchasing agent for the Post-Office Department, provides:

"The purchasing agent in making purchases for supplies necessary for the Post-Office Department shall advertise, as now provided by law, and award contracts for such supplies to the lowest responsible bidder, in pursuance of existing law. * * *

It is seen that the requirement of this provision that purchases and contracts for supplies shall be made upon public advertisement is qualified by the phrase "as now provided by law." It is fair to interpret these qualifying words as being intended to include in the requirement only such supplies as were at the time of that enactment required to be purchased or contracted for after advertising and receiving competitive bids for supplying the articles. So that the provision contained in the act of April 21, 1902, authorizing the manufacture of special-delivery and adhesive postage stamps by the Bureau of Engraving and Printing, in conformity with an agreement satisfactory to the Postmaster-General and the Secretary of the Treasury, when, in the opinion of the Postmaster-General, such may be required in the interests of the Post-Office Department, would seem not to have been affected by the latter enactment.

The provision in the act of June 26, 1906, to which reference has been made in this connection, is as follows:

"*Provided*, That no contract for the manufacture of adhesive postage stamps, special-delivery stamps, or books of stamps shall be made by the Government with any Department or bureau of the Government below the cost of such work to the Government."

The only effect of this provision upon the act of April 21, 1902, and that of April 28, 1904, is to preclude the letting of any contract for postage stamps either to the Bureau of Engraving and Printing or to any other bureau or Department of the Government at a rate of compensation for the work below its actual cost.

Review of the proceedings in Congress leading to the enactment of this proviso tends still further to show, however, that it was not the intention to require contracts for the manufacture of postage stamps to be let upon public advertisement to the lowest responsible bidder, as is required by the act of April 28, 1904, in respect of supplies generally for the Post-Office Department and postal service. The postal service appropriation bill as reported to the House of Representatives by the Committee on the Post-Office and Post-Roads contained the following:

"Office of the Third Assistant Postmaster-General: For manufacture of adhesive postage stamps, special-delivery stamps, and books of stamps, \$550,000: *Provided*, That no contract for the manufacture of adhesive postage stamps, special-delivery stamps, or books of stamps shall be made by the Government with any Department or bureau of the Government at any higher rate than offered for the same work by any responsible private contractor, nor shall the bid of such Department or bureau be at a price below the cost of such work to the Government."

To this provision the following amendment was offered by Mr. Crumpacker:

"Insert at the end of the paragraph: 'But in computing the cost of the work only the actual expense of such Department or bureau as will be made necessary for such work shall be reckoned.'"

In support of the amendment thus proposed, Mr. Crumpacker said:

"The amendment is to the paragraph that authorizes the letting of contracts for the manufacture of adhesive stamps and restricting the right of a Department or bureau of the Government to submit bids for such contracts. The proviso in the paragraph states that no Department or bureau of the Government shall submit any bid at a price below the cost of the work to the Government. Now, the effect of the amendment I propose is to provide that in computing the cost of the work only the additional expense to the Department or bureau of doing the work shall be reckoned.

"Adhesive stamps are now made by the Bureau of Printing and Engraving, and the Government has to maintain that establishment in any event. It already has the establishment and must provide for its superintendence, for its lighting and heating. It already has machinery and equipment for the manufacture of adhesive stamps, and in determining the cost of the work for the purpose of submitting bids, I simply desire to limit the department or bureau to the actual additional expense. It might be that under the provision of the bill only that element of expense would be reckoned, but in determining the cost of the manufacture of a product, as a rule a relative share of the cost of superintendence, and of the cost of maintenance of the plant, of the cost of lighting and heating, is reckoned. We must pay a large share of the cost of the Bureau of Printing and Engraving whether stamps are manufactured by the Government or not, because it must be maintained for other purposes, and it is not fair to the people, it is not fair to the Treasury, to exclude that Bureau from submitting bids on account of a fixed expense which the Government must pay whether it manufactures adhesive stamps or not.

"What I want to do is to make this paragraph clear. I want to put it in such condition that only the additional cost made necessary by the work itself shall be reckoned in determining the question of cost as a limitation upon the power of the Bureau to submit a bid. I think the gentleman from Indiana (Mr. Overstreet) ought to accept the amendment. It seems to me to be so fair and so in harmony with economic administration that there ought to be no opposition to it at all. If the Government, with the Bureau already established and equipped, can, with a comparatively small additional cost, make adhesive postage stamps, if it can make them more cheaply, if the additional cost would be less than it would have to pay a private manufacturer, then economy demands that postage stamps should be manufactured by the Bureau of Printing and Engraving.

"Under the bill as it is written it might operate to exclude the Bureau of Printing and Engraving from submitting a bid, because of the cost of maintaining the Bureau, which must be paid by the Treasury anyhow. I do not think that ought to be. I believe if the Government can manufacture its own stamps as cheaply in one of its own bureaus as can be done by private contract it ought to do so. It ought to have control of this particular work, just as it has control of the printing of money and bonds. But that Bureau certainly ought to have the right to submit a bid without the advantage that it already has in the way of equipment, in the way of establishment, operating against it. The effect of the amendment is to provide that simply the additional cost of the particular work shall be reckoned in determining the right of the Bureau to submit a bid, and the expense of maintaining the Bureau, which the Government must bear in any event, should not be considered as part of the cost of the work of manufacturing stamps."

By Mr. Overstreet:

"Mr. Chairman, the provision which the committee recommends is that no contract shall be made by the Government with any bureau of the Government at a loss to the Government. Whatever force there may be in the gentleman's amendment relative to the elements of cost which ought to be considered in making the calculation, it is unwise, in my judgment, to complicate the situation by putting into the statute in what way they shall make the calculation. We only seek to save the Government loss in this when the contract is carried by a different bureau of the Government when compared with the offer made by outside responsible contractors. I hope the amendment will be disagreed to."

The proposed amendment was rejected by the House of Representatives.

In a communication of the date of May 2, 1906, to the chairman of the Committee on Post-Offices and Post-Roads of the Senate, the Postmaster-General called attention to the fact that this provision, if enacted, would repeal the act of April 21, 1902, providing that the manufacture of special-delivery and adhesive postage stamps "may be done by the Treasury Department (Bureau of Engraving and Printing), in conformity with an agreement satisfactory to both the Postmaster-General and the Secretary of the Treasury," whenever, in the opinion of the Postmaster-General, the interests of the Post-Office Department require that this be done. The Postmaster-General further said:

"It is my desire to have the postage stamps printed at the least possible cost necessary to secure satisfactory results, but it is believed that the limitations of the pro-

vision above quoted are too narrow. It should be borne in mind that the Government already owns a plant specially built and equipped for this work, being an addition to the Bureau of Engraving and Printing, constructed for this purpose, and it is suggested that if this contract should be placed elsewhere there would be no further use for the special presses and other valuable equipment now the property of the United States. The Bureau surrounds the manufacture of stamps with the same checks and safeguards as are given to the printing of the currency at that institution and the establishment of an inspection system equally efficient elsewhere would involve the Department in considerable additional expense.

"I shall not object to a provision requiring that this contract may not be let without advertising, but I suggest that the question as to which bid shall be accepted be left to the discretion of the Postmaster-General."

In the postal service appropriation bill as subsequently reported to the Senate the proviso in question appeared in the following form:

"*Provided*, That no contract for the manufacture of adhesive stamps; special-delivery stamps, or books of stamps shall be made by the Government with any Department or bureau of the Government below the labor cost of such work to the Government."

The effect of this amendment was to strike out after the word "Government," first appearing in the original proviso, the following: "at any higher rate than offered for the same work by any responsible private contractor, nor shall the bid of such Department or bureau be at a price;" and to insert before the word "cost" the word "labor." The proviso as thus amended was agreed to by the Senate. In conference between the two Houses, however, the word "labor" was omitted, and does not appear in the proviso as finally enacted.

It is thus seen that the proviso as passed by the House of Representatives would have forbidden the giving of any contract for the manufacture of postage stamps to the Bureau of Engraving and Printing unless its bid was equal or below that of "any responsible private contractor" proposing to do the same work. As indicated in the letter of the Postmaster-General to the chairman of the Senate Committee on Post-Offices and Post-Roads, this would have repealed the provision in the act of April 21, 1902, authorizing postage stamps to be manufactured by the Bureau of Engraving and Printing without advertising for bids for the work. The refusal of the Senate to accept the proviso as passed by the House and its enactment in a form which merely forbids the letting of any contract for postage stamps to the Bureau of Engraving and Printing or any other Department or bureau of the Government at a rate below the actual cost of the work precludes any question which might be raised as to the authority of the Postmaster-General to arrange for the performance of the work by the Bureau of Engraving and Printing without advertising for bids.

It remains to be considered whether the Post-Office Department, having advertised for proposals for supplying postage stamps during a four-year period, and having received a bid from the American Bank Note Company at a rate considerably lower than that submitted by the Bureau of Engraving and Printing, which is the only other bidder, is required by law to award the contract to the company, it having been stipulated in the advertisement for such proposals that the right was reserved to reject any or all bids. In 20 American and English Encyclopedia of Law (2d ed.), 1169, it is stated as a rule that:

"The right is generally reserved to reject all the bids made under an advertisement therefor, which course may be pursued if the interests of the city require, *irrespective of a provision requiring the letting to the lowest bidder*. The act of bidding in response to an advertisement containing a reservation of the right to 'reject any or all bids' is of itself a consent to this reserved right and precludes the bidder from any attempt to enforce acceptance of his bid because it is the lowest."

American Artificial Stone Pavement Company (Limited) v. Wagner (21 Atl., 160), which is one of the cases cited in support of the rule thus stated, was an action of assumpsit by said company against Louis Wagner, director of public works of the city of Philadelphia, to recover damages alleged to have been sustained from the failure or refusal of the defendant to award to the plaintiff a contract for lining a section of the East Park Reservoir. The city council, having by ordinance appropriated \$300,000 for certain work in the water department, the director of public works advertised for proposals to do such work according to certain specifications furnished, reserving to himself, however, "the right to accept or reject any or all bids, as he may deem best for the interests of the city." Several proposals were received in response to this advertisement, but none of them was accepted. The proposal of the plaintiff company, however, was the lowest received. The director, having rejected all offers submitted, issued a second advertisement for proposals according to specifications providing for the execution of the work in the same manner as specified by the first advertisement, but adding that instead of lining the reservoir with concrete

to within 20 feet of the top the entire slope might "be lined with bricks on edge, bedded in cement," the option to be with the department of public works. The plaintiff company, insisting upon its right as the lowest bidder to receive the contract under the first advertisement, did not bid a second time. When the proposals submitted under the second advertisement were opened and scheduled, Lewis Grant was found to be the lowest responsible bidder, and the contract was awarded to him. The city, exercising its option, required the entire slope to be lined with bricks on edge, bedded in cement. The prices named in the bid of the plaintiff, if applied to the work as it was actually performed, would have amounted to \$19,337.74 more than was actually paid to the contractor, meaning a saving to the city of that amount. It was to recover this exact sum that the action for damages was instituted. In the opinion of the court it was said:

"No fraud is charged in the plaintiff's statement of claim, nor is there any evidence of fraud. The theory of the plaintiff's case is that, as by the sixth section of the act of May 23, 1874, all work and materials required by the city must be done and furnished 'under contract to be given to the lowest responsible bidder,' the bidder whose bid is the lowest, and whose responsibility is not objected to, is thereby legally entitled, under the statute, to a contract accordingly, whether the bid be accepted and the contract awarded or not, and that the officer who refuses to accord this right is individually liable in damages for the loss of profits sustained thereby.

"There is no averment of proof that the first bids were invited or, when opened, were used for any improper purpose, or that they were used corruptly to promote the interest or advantage of any personal or political friend, or to put the plaintiff to any disadvantage in the subsequent bidding. For anything that appears, the director of public works exercised the privilege reserved in good faith, acting in behalf of the city, whose interests he was bound to protect. If he had accepted any one of the first bids he was bound by law to give the contract to the 'lowest responsible bidder,' and a court of equity would have enjoined him from doing otherwise. But if upon opening these bids he believed them to be extravagant in amount, or the work upon the basis of the specifications to be unwise and against the public interest, it was his right to refuse them all, and to invite other proposals, upon the same and other specifications, which would give the city the option to award the contract according to the public interest. In the honest and judicious exercise of this discretion we can not see upon what principle of the law he could render himself individually liable to the lowest or to any other bidder, for no one is legally entitled to the contract until it is legally awarded to him. *Com. v. Mitchell* (82 Pa. St., 343). The submission of a sealed bid or proposal to the city for the furnishing of labor or materials, under the statute, is in all respects similar in its legal effect to a bid at an auction sale, where the seller is bound by law to sell to the highest and best bidder. The bid is a mere offer to buy at the price named, and may be retracted at any time before it is accepted; and it follows, of course, that the vendor has the same right to reject the offer and withdraw the article from sale that the bidder has to withdraw his bid; but it must be rejected before acceptance, and not afterwards.

"In this case the director of public works expressly reserved the right, and without having previously accepted any of them, he rejected all. If the law were not as we have stated it, as suggested by the learned judge of the court below, it would not be possible, after the reception of the bids and the ascertainment of the cost, for any projected public improvement to be abandoned or postponed, or to be prosecuted on a different plan, however imperative might be the reasons therefor. No matter that the bidding disclosed the financial inability of the municipality to complete the work; no matter that a proper economy, in view of the amount of money required, demanded a modification of the contract, or a postponement or even the entire abandonment of the scheme; if the appellant's contention is correct, the work must go on, the lowest bidder being legally entitled under his offer. If the law were so declared, then, indeed, would the city be in a helpless state; for if bidders should come to an understanding beforehand, it might be obliged to pay for labor and materials the most extravagant and enormous amounts, thus providing a fund for distribution among themselves far in excess of any reasonable profit. If the contract had been awarded to any other than the lowest responsible bidder, upon a bill to enjoin the execution of it the city authorities would doubtless be required to assign and show a sufficient legal cause, especially if the act was accompanied by evidence of bad faith and unfairness.

"The interest of the city, as well as the rights of individuals, might seriously suffer at the hands of a dishonest and unfaithful official, who would avail himself of the advantage of his position corruptly to favor his friends. Such a course would discourage bidders and destroy all honest and fair competition. Practices of this kind can not be too harshly condemned; but we are not at liberty to assume fraud, unfairness, or favoritism without proof, and there is not the slightest evidence that the

defendant in this transaction was actuated by any other motive than the promotion of the best interests of the city. The duties imposed upon the city authorities under the act of 1874 are not merely ministerial; if they were, their performance might be compelled by mandamus. But in *Com. v. Mitchell*, supra, a writ of mandamus was refused to the lowest bidder upon the ground that the act imposes duties that are deliberative and discretionary, and that, as this discretion appeared to have been exercised according to the best judgment of the officer in whom this function was lodged, a writ of mandamus could not be granted. To the same effect are the cases of *Findley v. City of Pittsburg* (82 Pa. St., 351); *Douglas v. Com.* (108 Pa. St., 559); *Yealy v. Fink* (43 Pa. St., 212); and *Burton v. Fulton* (49 Pa. St., 151). The director of public works had an undoubted right, in the exercise of his judgment and discretion and acting in good faith in the interest of the city, to refuse to accept any of the bids tendered on the 31st of May, 1887. Having done so, he had a right at another time to solicit other bids upon the same, and upon different specifications, and to accept the lowest of all the bids, by a responsible bidder, under the specifications which he should regard as most favorable to the public interest. His judgment could not be coerced by mandamus, nor was his discretion to be exercised under the fear of individual responsibility for the prospective profits of disappointed bidders. The judgment is affirmed."

The question for decision in *Madison v. Harbor Board of Baltimore City et al.*, decided by the court of appeals of Maryland December 2, 1892 (25 Atl., 337), was stated by the court to be "whether the commissioners of the harbor board are clothed with such a degree of official discretion in selecting bidders as to place them beyond the control of courts by mandamus." In passing upon the questions the court said:

"The ordinance under which the harbor board acts and from which it derives its authority to select bidders for work in the harbor is ordinance 44 of 1886, and the language used by it is that the contract shall be 'awarded to the lowest responsible bidder: Provided, the said bidder be * * * bona fide engaged in the business of dredging.' We think it clear that a board such as the one in question, with duties such as are imposed upon it by ordinance, must have a large degree of discretion in the exercise of its important functions. It would not occur to the ordinary mind that it was ever contemplated by the framers of the city ordinance from which the board derives its powers and authority that it was not the tribunal which was finally to determine whether any particular person was an eligible bidder under the provisions of the ordinance; for, if it were in the power of bidders for contracts to do municipal work to appeal from the decision of the board without any allegation, or even suggestion, of fraud, the harbor board would cease to be of any use, and all the questions it was intended to decide would be referred to the courts. It is of much more importance that a public contract, like the one in question, should be promptly awarded and speedily executed with due regard to economy, than that any particular bidder should get the contract (*State v. Board of Education*, 24 Wis., 683; *Com. v. Mitchell*, 82 Pa. St., 343); and therefore it has been held by the great weight of authority that the public work shall not be delayed by appeals to the courts of dissatisfied and disappointed bidders, but that the decision of public officers, like these commissioners, upon questions such as those here involved, shall not be reviewed by the courts unless it can be shown that such public officers have been guilty of fraud in the exercise of their discretion. (*High, Extr. Rem.*, sec. 92, and authorities there cited.)"

In *Interstate Vitrified Brick and Paving Co. v. City of Philadelphia et al.*, decided by the supreme court of Pennsylvania, October 29, 1894 (30 Atl., 383), it was held that the act of May 23, 1874, directing municipal officers to award certain contracts to the "lowest responsible bidder," vests discretionary, and not merely ministerial powers in such officers; the word "responsible" as therein used applying not only to pecuniary ability, but also to judgment and skill. The opinion of the court was as follows:

"FELL, J. The learned judge of the common pleas, upon the hearing of the application for a preliminary injunction, distinctly found that the director of the department of public works of the city of Philadelphia 'had acted for what he considered the best interests of the city,' in awarding the contract for paving to the Mack Paving Company. A careful examination of the testimony has satisfied us that this finding was correct. There was no allegation in the bill, nor any attempt in the testimony to show that this officer acted in bad faith; and throughout the whole proceeding his entire honesty of purpose and his thorough integrity, seem to have been conceded. There then remained but one question, and that related to the power of the director, under the act of May 23, 1874. The decree is based upon the opinion that the director had no alternative but to award the contract 'to the lowest bidder who is able pecuniarily to carry out his contract.' This was a misconception of the law as it has been repeatedly announced by this court.

"The construction of the act of 1874 was first before this court in 1876, in the case of *Com. v. Mitchell* (82 Pa. St., 343); and it was there distinctly held that the word 'responsible,' as used in the sixth section, meant more than the pecuniary ability of the bidder to carry out the contract, or to be answerable in damages for its breach, or to enter security for its performance, and that the act vested in the officer whose duty it was to award the contract a discretion, and that his powers were not merely ministerial. This case was followed in the same year by *Findley v. City of Pittsburgh* (82 Pa. St., 351), in which the same view of the act was stated. The question again arose in 1885, in *Douglas v. Com.* (108 Pa. St., 559), and it was there said by *Mercur, C. J.* 'The act of 23d May, 1874, directing contracts to be awarded to the 'lowest responsible bidder,' has twice been before us for construction. In each it was held that the word 'responsible,' as used in the act, applies, not to pecuniary ability only, but also to judgment and skill. The duties thereby imposed on the city authorities are not merely ministerial, limited to ascertaining whose bid was the lowest, and the pecuniary responsibility of the bidder and his sureties. The act calls for the exercise of duties which are deliberative and discretionary.' This doctrine was reaffirmed in 1891 in *Pavement Co. v. Wagner* (139 Pa. St., 623, 21 Atl., 160). It therefore follows that, under the findings of fact by the learned judge, there was but one conclusion that was in harmony with the decided cases. The decree of July 9, 1894, granting an injunction, is reversed and set aside, and the injunction dissolved, at the cost of the appellee. *Williams, J., dissents.*"

People ex rel. Coughlin v. Gleason, mayor, decided by the supreme court of New York February 11, 1889 (4 N. Y. Supp., 383), was an application for a mandamus to Patrick J. Gleason, mayor of Long Island City, to sign a warrant for payment for work done under contract with the city. It was provided by the charter of Long Island City that all work to be done for the city costing more than \$100 should be let to the lowest responsible bidder giving adequate security. The council voted a contract to Coughlin, who was not the lowest bidder, and the mayor vetoed the resolution. The council passed the resolution over his veto, and Coughlin did the work and the council voted that payment be made according to the contract, but the mayor refused to sign the warrant. It was held by the court that the question as to who was the lowest responsible bidder was a quasi judicial one, which was not subject to review by the court after it was passed on by the council, and that it was the duty of the mayor, after the council had audited and allowed the claim, to sign the warrant.

To similar effect are the decisions in *Reuting et al. v. City of Titusville et al.*, decided by the supreme court of Pennsylvania May 18, 1896 (34 Atl., 918); *People ex rel. Assyrian Asphalt Co. v. Kent, Commissioner*, decided by the supreme court of Illinois March 28, 1896 (43 N. E., 760); and *Downing v. Ross* (1 App. Cases, Dist. of Col., 251). In the opinion filed by the court in the first of these cases, it was said:

"It was held in *Com. v. Mitchell* (82 Pa. St., 343), that the word 'responsible' in the act of the 23d of May, 1874, means something more than pecuniary ability; that the duties imposed upon the officers awarding a contract are deliberative and discretionary. In *Douglas v. Com.* (108 Pa. St., 559), the court said: 'The act of 23d May, 1874, directing contracts to be awarded to the 'lowest responsible bidder,' has twice been before us for construction. In each it was held that the word 'responsible' as used in the act applies not to pecuniary ability only, but also to judgment and skill. The duties thereby imposed on the city authorities are not merely ministerial, limited to ascertaining whose bid is the lowest, and the pecuniary responsibility of the bidder and his sureties; the act calls for an exercise of duties and powers which are deliberative and discretionary.' The same doctrine is reaffirmed in *Interstate Vitrified Brick & Paving Co. v. Philadelphia* (164 Pa. St., 477, 30 Atl., 383). *If it clearly appears, therefore, that McDonald was a lower bidder than Rouse, in the absence of evidence tending to show that the authorities acted in bad faith, or from corrupt motives, they might award the contract to the higher bidder, if considerations of superior skill, promptness or efficiency on the part of such bidder lead them to do so.*"

In *State v. Board of Education* (24 Wis., 683), the court said:

"When the law requires a public work to be let to the lowest bidder, such bidder, after his bid has been rejected and the contract awarded to another, has no absolute right to a mandamus to compel the execution of a contract with him; and in this case the court refuses to complicate the matter by directing the court below to issue the writ."

In *Downing v. Ross*, supra, it was said:

"In this country, while the same doctrine as to the restraining power of a court of equity is maintained, as in England, the foundation of the jurisdiction is placed generally upon the ground of a breach or abuse of trust by the officials. But, as held by all the best considered cases, both there and in England, so long as the public functionaries keep within the limits of the powers vested in them, and do not act, or attempt to act, ultra vires, the court avoids interfering with them, and will not in any

case interfere with the exercise of official discretion vested in such functionaries. Duties of officers entrusted with the letting of contracts for works of public improvements, to the lowest responsible bidder, such as those imposed upon the commissioners in this case, are not duties of a strictly ministerial nature, but involve the exercise of such a degree of official discretion as to place them beyond the control of the courts, so long as they act within the limit or scope of the authority delegated to them. The statutory requirement that these contracts shall be let to the lowest responsible bidder is intended for the benefit and protection of the public, *rather than that of the bidders*; and it is incumbent upon the party invoking the interposition of the court to show plainly that there has been, or that there is danger of being, such assumption or usurpation of authority by the commissioners, or such fraudulent abuse of their powers, as to render it proper for the court to interfere, as a necessary condition to inducing the court to exercise its power of restraint. Here, there being no pretense of fraud, we utterly fail to perceive wherein the commissioners have exceeded the limits of the authority confided to them. It is conceded that the defendant Thomas was, in fact, the lowest bidder for the work awarded to him; and by the terms of the statute it is declared that 'the lowest responsible proposal for the kind and character of pavement or other work which the commissioners shall determine upon, shall in all cases be accepted.'

The decree of the lower court dismissing the bill of complainants as property holders and taxpayers of the District of Columbia, to restrain the Commissioners of the District from accepting the proposal of Thomas to pave certain streets in the city of Washington, and to vacate any contract which might have been made with him, upon the ground that such proposal was not made in accordance with the specifications and instructions under which proposals were invited to be made for doing the work, was affirmed. It should be stated that the proposal of Thomas was the lowest received, but in it he interlined the condition that he be awarded at least 25,000 square yards of the pavement to be made. The contention was that this interlineation vitiated and rendered illegal the proposal made by Thomas. But it was averred by the Commissioners that they awarded the contract to Thomas because he was the lowest responsible bidder for the work, and they paid no regard whatever to the condition interlined in the proposal.

Upon consideration of numerous authorities, I am of opinion that the Postmaster-General has authority to award the contract for supplying postage stamps to the Post-Office Department, to the Bureau of Engraving and Printing, notwithstanding that the bid of the American Bank-Note Company is the lower of the two bids received; provided, in his judgment the making of such award would be in the interest and for the benefit of the Government. However, it is probably the better plan in the circumstances to reject both the bids submitted, and to proceed anew by entering into an agreement with the Secretary of the Treasury for the performance of the work by the Bureau of Engraving and Printing, as authorized by the act of April 21, 1902.

R. P. GOODWIN,
Assistant Attorney-General.

THE POSTMASTER-GENERAL.

[Memorandum.]

On September 28, 1906, an advertisement was issued by the Post-Office Department calling for proposals for furnishing postage stamps and books of stamps for its service during a period of four years to begin February 1, 1907. In response to this advertisement two proposals were received, one from the American Bank Note Company, of New York, and the other from the Bureau of Engraving and Printing of the Treasury Department.

There was constituted by the Postmaster-General to open, examine, and consider these proposals a committee consisting of three members, by two of whom it was recommended that the proposal of the American Bank Note Company for supplying postage stamps and books of stamps of the same designs and denominations as those now being manufactured and supplied to the Post-Office Department by the Bureau of Engraving and Printing be accepted; while the third member recommended that the contract be awarded to the Bureau of Engraving and Printing. In the report of this committee it was said:

"The proposal of the American Bank Note Company for the estimated quantity for the contract term of four years is \$110,498.98 less than that of the Bureau of Engraving and Printing, or \$27,624.74 per annum. The expense to the Post-Office Department at the present time for supervision of the printing of stamps at the Bureau of

Engraving and Printing is \$1,400, that being the salary of the clerk detailed to supervise the filling of requisitions. In 1894, the last year that stamps were furnished by a private contractor away from the seat of Government, the appropriation for the stamp agent, his clerical force and expenses, was \$12,000. We are inclined to think the appropriation of a like sum would now be necessary to supervise the work if the contract went to the American Bank Note Company. Deducting from \$12,000 the \$1,400 expense for the clerk at the Bureau of Engraving and Printing leaves \$10,600 as the added expense to the Government, which would reduce the amount saved by accepting the lowest bid to \$17,024.74 per annum."

All of the postage stamps used by the Department during the past twelve years have been printed at the Bureau of Engraving and Printing under the same supervision that is given to the printing of currency and securities of the United States. I am informed that the work has been satisfactory in every respect and that all requisitions have been promptly and accurately filled.

The plant which has been installed at the Bureau of Engraving and Printing for the manufacture of postage stamps and books of stamps is understood to be equipped with the best and latest improved machinery and appliances, and its capacity is sufficient to meet all demands that may be reasonably anticipated. This being the case, the only benefit that could be derived by the Government in abandoning the manufacture of its postage stamps, and awarding the contract for furnishing them to the American Bank Note Company, would be an annual saving, according to the estimate of the committee, of about \$17,000. This amount would probably be offset by the loss on the machinery of the postage stamp plant, even if it should be sold to the American Bank Note Company at its present market value. This machinery, moreover, is adequate to all the present requirements of postage stamp manufacture, quite as much so, indeed, as new machinery would be; and its appraised market value would not nearly represent its actual value to the Government.

It must also be considered that there is no existing provision of law for the supervision of the manufacture of postage stamps away from the seat of Government. In the event that the contract should be awarded to the American Bank Note Company, the force necessary for proper supervision of the manufacture of stamps at New York would therefore have to be detailed from some of the special branches of the service until legislative provision could be made for the changed conditions; and this would inevitably result in delaying public business and embarrassing the Post-Office Department.

The same checks and safeguards against losses are employed at the Bureau of Engraving and Printing in the manufacture of postage stamps as in that of currency, revenue stamps, and securities of the United States, and for the same reasons. Indeed, there is reason for even greater protection in respect of postage stamps, for they are wholly finished at the Bureau and ready for issuance immediately from there.

The Government has erected a building at great expense, and equipped it with costly machinery, in order that its currency, revenue stamps, and securities may be prepared by and under the supervision of its own employees and officials; and it would seem that postage stamps, which are in the nature of currency, should be manufactured in the same manner and under the same supervision. While Congress has not directed that postage stamps should be manufactured at the Bureau of Engraving and Printing, it has authorized the Postmaster-General to have them manufactured there, when in his judgment to do so should be for the best interests of the Post-Office Department. The matter was probably left within his discretion for the reason that in 1902, when the act giving such authority was passed, doubts were expressed as to the ability of the Bureau of Engraving and Printing to furnish stamps in the quantity that would be required by the Post-Office Department.

It appears to be the policy of the Government, as shown by various acts of Congress, to manufacture its currency, revenue stamps, securities, etc., by its own agencies and under the supervision of its own officials, and it would be contrary to that policy to give over to a private company the contract for the manufacture of postage stamps, which are securities of the United States, solely for the purpose of effecting a saving to the Post-Office Department of an amount relatively small and largely problematical.

The American Bank Note Company, in its letter of November 13, offers to the Government the option of five successive renewals, of four years each, upon the same terms and conditions as now proposed, of the contract for the manufacture of postage stamps and stamps in books. Admitting the fairness of this offer and the good faith of the company in making it, there may be serious doubt whether it would be legally binding upon the company, if accepted by the Postmaster-General, and whether, indeed, its acceptance would be warranted by public policy.

For the foregoing reasons, and without questioning either the ability or responsibility of the American Bank Note Company, it does not seem to me that the award of the

contract for printing postage stamps and stamps in books to that company would be justified.

The proposal of the American Bank Note Company for furnishing to the Post-Office Department during the four-year period beginning February 1, 1907, postage stamps and books of stamps of the same designs and denominations as those now in use, which proposal was submitted under the advertisement dated September 28, 1906, is hereby rejected; and contract for supplying such stamps and books of stamps during said period will be awarded to the Bureau of Engraving and Printing.

It is my purpose to recommend to Congress at its next session the enactment of legislation requiring all postage stamps and stamped paper used by the Post-Office Department to be manufactured by the Bureau of Engraving and Printing at a compensation equal to the actual cost of the work.

GEO. B. CORTELYOU,
Postmaster-General.

NOVEMBER 22, 1906.

Mr. SNAPP. Did you have to report in any way on these two bids? That is, did you report to the Postmaster-General that the bid of the Bureau of Engraving and Printing should be accepted; or did you at any time report that the bid of the American Bank Note Company should be accepted?

Mr. COCHRAN. I considered my approval of the report of the committee that the bid of the American Bank Note Company should be accepted as my recommendation to that effect.

Mr. SNAPP. I think that is all I care to ask about this.

The CHAIRMAN. I want to ask an entirely different question. Mr. Cochran, I am in receipt of a letter addressed to me by the Postmaster-General recommending the authorization of a contract for a wareroom for the supply division in the city of Washington. Will you state briefly to the committee just what the necessities are for such a wareroom?

Mr. COCHRAN. It is a matter I only know of in a general way, and with which I have not had much to do.

The CHAIRMAN. That matter has been taken up by whom?

Mr. COCHRAN. It has been taken up by the chief clerk.

The CHAIRMAN. And there is need for such a place?

Mr. COCHRAN. Yes, sir. I understand that it covers both of the repair shops, the mail-bag repair shop, and the mail-lock shop.

The CHAIRMAN. Yes, sir.

Mr. COCHRAN. The supply division is very poorly housed. It not only has insufficient room, but the room it has is not at all creditable. It is a regular firetrap, and there is danger at any time of having the whole thing burned down, with consequent destruction of those supplies there, which would work very serious harm to the service. As to the mail-bag repair shop, it is a scandal and a shame to have any Government people working in such quarters as that.

The CHAIRMAN. There is now carried in the Post-Office appropriation bill an item of \$14,000 to cover the expense of the mail-bag repair shop, out of which there is a very limited amount for charwomen and watchmen—a hundred or two dollars. There is carried in the legislative bill, I think, twelve or thirteen, or possibly fourteen thousand dollars more for buildings that are now used for the supply division.

Mr. COCHRAN. Yes.

The CHAIRMAN. The matter has been laid before me in person by the representative of the Postmaster-General, and is covered very fully by this letter, which I will file, showing that this contract

which they are now able to consummate will afford them a very excellent home for the supply division and also the mail-bag repair shop, with fireproof protection, as nearly as such protection is now known in construction, with ample room for the accommodation of the clerical force, and with sufficient capacity for the growing needs for a number of years, at an upset price beyond these two appropriations of a very small amount, not taking into account the drayage and cartage which is necessary now in the handling of this property, nor the possible damage or injury by frequent handlings; and that this building is located close to the railroad station, where the supplies can be held or shipped out without rehandling, as they now are. With that explanation, I will file the letter for the information of the committee, and at the proper time we can take it up in executive session.

THE TERMINAL STORAGE COMPANY,
Washington, D. C., December 20, 1906.

The POSTMASTER-GENERAL,
Post-Office Department, Washington, D. C.

SIR: The Terminal Storage Company, of the District of Columbia, hereby offers to lease to the United States Government, for uses connected with the Post-Office Department, the southern portion of square No. 713, Washington, D. C., directly abutting upon the new Union Terminal Station, and connected with the tracks of all of the steam railroads entering the city.

The property referred to is improved, first, by a large eight-story and basement fireproof warehouse, and, second, by a smaller building known as Merchandise Warehouse No. 7. The fireproof building is occupied by this company in the conduct of its furniture storage business, while warehouse No. 7 is used in connection with its merchandise department.

The buildings, if taken, will be adapted to the uses of the Government. The Terminal Company will remove from the fireproof building such partitions and make such alterations in the interior and do all things reasonably necessary to its use by the Post-Office Department, it being understood, however, that all such changes are to be agreed upon definitely by and between the Terminal Company and the Post-Office Department; and when once made in accordance with such agreement that the building when taken over will be maintained and kept in repair during the term of the lease at the expense and cost of the Government.

This company is willing also to add an additional story to warehouse No. 7, and make such division of the floor space into rooms as may be mutually agreed upon. It will install in said warehouse No. 7 suitable steam radiators, and connect the system with the boilers of the furniture warehouse. It will construct toilet rooms, and make such additions as will adapt the building to the comfortable housing of a clerical force, but after the property has been taken by the lessee it will, during the term of the lease, be maintained and kept in repair at the cost and expense of the United States Government.

When completed, warehouse No. 7 will contain approximately 13,740 square feet of floor space.

The term of the proposed lease is ten years. The rental for the furniture warehouse to be \$27,000 per year, and for warehouse No. 7, \$5,000 per year.

If desired, a clause may be inserted in the lease giving to the United States Government the right and privilege of purchasing at the end of any year during the first five years of the term the furniture warehouse for the sum of \$350,000, and the warehouse No. 7 for \$50,000.

Very respectfully,

EDWARD J. STELLWAGEN, *President.*

THE TERMINAL STORAGE COMPANY,
Washington, D. C., December 26, 1906.

MR. M. O. CHANCE,
Chief Clerk, Post-Office Department, Washington, D. C.

DEAR SIR: Answering your favor of December 22, we beg to say:

1. The consideration of merchandise warehouse No. 7 for conversion into an office building has been of recent date, and no very definite ideas have as yet been advanced

by you as to exactly what is wanted. When it was thought that this building might be used for mechanical or storage purposes it was suggested that it could probably be had for \$3,000 a year, if taken in its present condition, without additions or alterations.

The proposition of December 20 was upon the theory that an additional story would have to be added, walls plastered, heating fixtures installed, and plumbing introduced. In fact, everything done to make it a comfortable and convenient office building.

Mr. Fleming's statement was that the rent would probably be from \$4,000 to \$5,000 a year, based entirely upon the character of additions and improvements desired.

If you can make out with it for office purposes without the walls being plastered and without the more expensive finishing which we had in contemplation, it is possible that we can meet the figure of \$4,000 a year, as suggested.

2. The chief engineer of the Terminal Company has already furnished our architects with the drawings for the elevated structure which will be built adjoining the furniture warehouse and warehouse No. 7 on the north, and from which these structures will receive direct car service. The time of its erection only awaits the removal of the surface tracks.

This work will be done at our expense, and we will guarantee its being there as part of the consideration for any lease which may be entered into.

There are no switching charges from the terminal structure onto the tracks of our property.

3. It was intended that each of the buildings should be put in perfect repair when turned over to the Government, and it did not seem unreasonable to us that they should be so maintained by the Government during its lease.

As that view, however, does not seem to meet your favor, we shall be willing to agree to make good any defects incident to ordinary wear or damage by the elements, the Government to be responsible and to make good any damage caused by careless use. This, however, not to apply to the machinery, which requires constant attention to be kept in order, and which should be looked after by your engineer upon the premises.

Very truly, yours,

EDWARD J. STELLWAGEN, *President.*

DECEMBER 22, 1906.

THE TERMINAL STORAGE COMPANY,
1414 F street NW., Washington, D. C.

SIRS: The receipt is acknowledged of your letter of the 20th instant, addressed to the Postmaster-General, submitting a tentative proposition in connection with the proposed lease of the property located in the southern portion of square No. 713, Washington, D. C.

It is noticed that the figures submitted for the rental of warehouse No. 7 have been stated as \$5,000. In my first conversation with your Mr. Fleming I was given to understand that this warehouse would be rented at \$4,000 per annum after an additional story had been added. Will you please state the reason, or reasons, for the additional \$1,000 submitted?

It is also requested that you submit to this office assurances from the railroad companies that there will be no question that a siding will be placed alongside the building if rented by the Post-Office Department, and that there will be no switching charges.

The proposition submitted in your letter concerning the repairs is thought to be much too broad; that is to say, the Post-Office Department would be unable to enter into an agreement that the buildings would be kept in repair during the term of the lease at the expense and cost of the Government. It is thought that this part of the agreement would have to be considerably modified.

I shall be pleased to receive from you a further statement in the matter.

By direction of the Postmaster-General.

Respectfully,

M. O. CHANCE, *Chief Clerk.*

THE TERMINAL STORAGE COMPANY,
Washington, D. C., January 7, 1907.

Mr. M. O. CHANCE,
Chief Clerk, Post-Office Department, Washington, D. C.

DEAR SIR: Desiring to meet the requirements for additional space and light, I beg to say that this company will put a third story on its warehouse No. 7, so that there will be three floors available for use, as shown in the plan submitted to you by our Mr. Fleming on Saturday last.

This addition to the building will be made without adding anything to the annual rental of \$5,000, heretofore named to you.

Very truly, yours,

EDWARD J. STELLWAGEN, *President.*

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 7, 1907.

Hon. JESSE OVERSTREET,
Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.

SIR: I have the honor to invite your attention to the conditions at present existing in the various buildings occupied by the Post-Office Department in Washington.

The Post-Office Department building is occupied jointly above the first floor by the Post-Office Department and part of the office force of the Auditor for the Post-Office Department. That part of the building assigned to this Department is crowded to its utmost capacity, and for that reason it has been necessary to rent a building for office purposes.

The Busch Building, located at No. 710 E street NW., the building last-above mentioned, is rented by the Department. It contains approximately 27,741 square feet.

The Rink building, located at 611-613 E street NW., containing about 25,000 square feet and used exclusively by the division of supplies, is also rented by the Department. This building, formerly used as a skating rink, is unsuitable for the needs of the division of supplies and inadequate in size. Many of the employees of the division of supplies are located in the Busch Building, occupying 8,500 square feet of floor space in that building. Furthermore, the Rink building is considered unsafe. It is a mere shell and the danger from fire is great despite the many safeguards provided.

The mail-bag repair shop is located in a rented building at Nos. 479-481 C street NW., containing 34,000 square feet of floor space. This building is maintained for the purpose of receiving, inspecting, and repairing or condemning the mail bags which are constantly being turned in by the post-offices throughout the country as damaged or otherwise temporarily unfitted for use. This shop also makes a small portion of the equipment to meet the emergencies of the service. There are over 200 employees in the mail-bag repair shop. Since 1888 this shop has been located in its present quarters. The building was formerly occupied as a carriage repository. The building is utterly unsuitable and unsafe for the purpose for which it is used. It has no passenger elevators. Recently, in compliance with my request, an inspection of this building was made by the officials of the District of Columbia. The reports of the various inspectors, including the chief engineer of the fire department, the chief inspector and deputy health officer, the electrical inspector, and the computer of the building department, condemned the building as unsafe and unfit for occupancy. The department has been unable to move the mail-bag repair shop from this building because the amount of money appropriated by Congress has not been sufficient to pay the rent for any other building large enough for the purpose.

The mail-lock repair shop is located in a building at No. 1422 First street NE., and contains approximately 10,500 square feet.

It has long been my desire to secure a building adjacent to the railroad tracks suitable for the mail-bag and mail-lock repair shops and the division of supplies. To this end a thorough search has been made for such a building. It has been ascertained that the Terminal Storage Company of Washington, D. C., is willing to rent to this Department for a term of years the buildings known as the Terminal Storage Warehouse and Warehouse No. 7, located at First and K streets NE., remodeling both to meet the needs of the Department. To do this it will be necessary to remove many of the partitions now in place in the storage warehouse, to furnish a suitable heating plant, to cut additional windows on each floor, and to make many minor changes. It is proposed to add two stories to warehouse No. 7, thus making it a three-story building. For your information and convenience there are inclosed herewith a photograph showing the

storage building and a blueprint showing the storage building and warehouse No. 7, and their proximity to the railroad tracks.

The larger building is eight stories high and contains, including the basement, about 90,000 square feet. It is substantially constructed and is fireproof. The building is provided with one electric passenger elevator and two electric freight elevators. These latter are so large as to be each capable of carrying a loaded furniture van. Warehouse No. 7 will contain, when the two stories are added, approximately 18,660 square feet. The two upper floors will be designed for use as offices, the lower floor probably for storage purposes.

The owners of these buildings have made a proposition to this Department to rent the two buildings in question for a term of not less than ten years, at an annual rental of \$32,000—\$27,000 for the larger building, and \$5,000 for the smaller.

An examination of the leases of the four buildings now rented by the Department shows that, with the exception of the building 1422 First street NE., occupied as a mail-lock repair shop, each of said leases may be terminated by the Postmaster-General by a notice in writing to the owners giving them reasonable notice (thirty days) of his intention to quit the premises. In the case of the building occupied as a mail-lock repair shop the lease is for one year, beginning April 16, 1906, with the privilege of extending the lease for five years. Thus it appears that this lease expires on April 15, 1907.

I believe the best interests of the Government will be subserved if Congress will appropriate a sufficient sum of money to permit this Department to lease these buildings. Therefore I have the honor to recommend that there be included in the bill making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1908, and for other purposes, under the heading "Office of the Postmaster-General," the following items:

For rent of suitable buildings for the use of the Post-Office Department, including the mail-bag repair shop, lock repair shop, and the division of supplies. . . \$32,000

Provided, That the Postmaster-General is authorized in his discretion to enter into a contract for the rent of suitable buildings in the vicinity of the railroad tracks for the use the Post-Office Department for the period of ten years.

For electric power and light and the repair of machinery in said buildings . . . 5,000
For moving supplies, furniture, and machinery, and for the installation of the same..... 3,750

If this appropriation is made, it is the intention to request the elimination from the legislative bill of the item under contingent expenses "For gas and electric lights, \$1,500."

The present appropriations for the four buildings rented by this Department aggregate \$26,800. The appropriation herein requested, exclusive of the amount necessary for moving and installation, is \$37,000. Deducting from this the \$1,500 now appropriated for gas and electric lights, the difference between the amount now appropriated and the amount requested, the net increase is \$8,700. This amount, however, does not represent an actual increase, because the cost of hauling by wagons between the various divisions and the railroad stations will be eliminated. Inasmuch as the approximate daily average of wagon loads from these divisions is 53, it will be seen that this item alone will more than wipe out the amount shown. Furthermore, all contracts made by the Department for supplies carry the stipulation that such supplies shall be delivered at the division of supplies in this city. Therefore contractors in making bids include the cost of hauling by wagons from the railroad depots to the division of supplies. This is another expense that will be avoided.

Briefly stated, this Department desires to relinquish the four buildings now rented, the appropriations for which amount to \$26,800, and to have appropriated in lieu thereof the sum of \$32,000 for the rent of two buildings, the sum of \$5,000 for electric power and lighting and for repair of machinery, and the sum of \$3,750 for moving and installation.

Respectfully,

GEO. B. CORTELYOU,
Postmaster-General.

OFFICE OF FOURTH ASSISTANT POSTMASTER-GENERAL,
Washington, January 15, 1907.

MY DEAR MR. OVERSTREET: Recurring to the inquiries of your honorable committee on the subject of shipments of supplies by mail, and the authority of this Bureau for continuing such shipments pending the next mail-weighting period, I send you herewith copy of the opinion of the Assistant Attorney-General, embodying his construction

of the intention of Congress in the enactment of the provisions applicable to shipments by freight, as they appear in the act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1907.

Very truly, yours,

P. V. DE GRAW,

Fourth Assistant Postmaster-General.

Hon. JESSE OVERSTREET,

Chairman Committee on Post-Office and Post-Roads,

House of Representatives.

OFFICE OF THE ASSISTANT ATTORNEY-GENERAL

FOR THE POST-OFFICE DEPARTMENT,

Washington, August 15, 1906.

SIR: I have carefully examined the provisions of the act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1907, which, in your letter of June 29, you suggest are contradictory of each other. These provisions are as follows:

" * * * And the Postmaster-General shall require, when in freightable lots and whenever practicable, the withdrawal from the mails of all postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the postal service, except postage stamps, in the respective weighing divisions of the country immediately preceding the weighing period in said divisions, and such postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment and other supplies for the postal service, except postage stamps, shall be transmitted by either freight or express."

"That hereafter no article, package, or other matter, except postage stamps, stamped envelopes, newspaper wrappers, postal cards, and internal-revenue stamps shall be admitted to the mails under a penalty privilege, unless such article, package, or other matter, except postage stamps, stamped envelopes, newspaper wrappers, postal cards, and internal-revenue stamps would be entitled to admission to the mails under laws requiring the payment of postage."

The first of these provisions is understood to mean that whenever practicable the sending by mail of bulky postal supplies, except postage stamps, shall cease immediately preceding the weighing period, and that during said period and thereafter all such supplies shall be transported by freight or express; while the second of the provisions quoted subjects official matter, with the stated exceptions, to the same limitations and conditions as unofficial or private matter. With respect to these limitations, it is sufficient at the outset to say that the most important is the restriction of official mail, with certain exceptions, to a weight "not exceeding four pounds for each package thereof," reserving for a later discussion the exact limits of such restriction.

To give the second of these provisions full effect at the present time, without regard to the first, would debar from the mails all official matter weighing more than 4 pounds, except such as is expressly admitted by the act of June 8, 1896 (ch. 370, 29 Stat. L., 262), hereinafter quoted, and except postage stamps, stamped envelopes, newspaper wrappers, postal cards, and internal-revenue stamps. On the other hand, according to the first provision quoted, the withdrawal of official matter, except postage stamps, "when in freightable lots and whenever practicable," is to be postponed until "immediately preceding the weighing period," in the respective weighing divisions of the country. It is therefore my opinion that the two provisions should be read together, and that the second should be considered to be subject to such qualifications as are contained in the first. This view is supported by the remarks of the chairman of the Committee on the Post-Office and Post Roads, in the House of Representatives on April 4, 1906, who, in referring to the first provision, said:

"In connection with this same provision the committee recommend another provision, which is:

"That hereafter no article, package, or other matter shall be admitted to the mail under a penalty privilege unless such article, package, or other matter would be entitled to admission to the mails under laws requiring payment of postage."

It seems to me evident that the intent of Congress was to require that immediately preceding the weighing period in each respective weighing district all official matter, supplies, etc., except postage stamps, "when in freightable lots and whenever practicable," should be withdrawn from the mails and sent by freight or express; and that thereafter "no article, package, or other matter, except postage stamps, stamped

envelopes, newspaper wrappers, postal cards, and internal-revenue stamps, shall be admitted to the mails under a penalty privilege unless such articles, package, or other matter, except postage stamps, stamped envelopes, newspaper wrappers, postal cards, and internal-revenue stamps, would be entitled to admission to the mails under laws requiring payment of postage."

Congress evidently had in mind the loss which would be sustained by the Government if all bulky supplies of the character described should be immediately withdrawn from the mails, for the reason that the rates of mail pay had already been fixed and were based in large measure upon the presence of such articles; and for the Government to pay for such mail transportation at such rates and yet withdraw from the mails large quantities of bulky matter and pay freight thereon would result in double compensation for the same service. But the application of the 4-pound limit to official matter would result even more effectually in causing the withdrawal from the mails of such supplies. It is my opinion, therefore, that in both of these provisions Congress desired the action of the Department to be taken immediately preceding the weighing periods in the respective divisions which would be affected by such action.

That this was the intent of Congress, and that it has this feature of the matter in mind, is shown by the following quotation from the report of the Committee on the Post-Office and Post-Roads, wherein this legislation was recommended:

"If the supplies for the various Departments, including the Post-Office Department, should be eliminated from the mail and transmitted entirely by freight, it would certainly result in economy in the service, both in the reduction in the weight of mail and the saving of space in post-office cars. The gradual elimination of this class of matter immediately preceding the various weighing periods will permit such change of method as will avoid duplication of pay both by railway-mail pay and freight charges."

It is clear that the "gradual elimination of this class of matter immediately preceding the various weighing periods" was what was contemplated, and that the unrestricted application of the second provision above quoted would not accomplish this result.

The chairman of the committee spoke at some length upon this question, while the post-office appropriation bill was under consideration in the House of Representative, saying in part:

"But, Mr. Chairman, if we should provide now for the arbitrary withdrawal from the mail in all of the sections of the country of these empty mail bags and other supplies, such action on our part would increase the cost to the Government in those divisions where the weight has already been fixed and payment established under the law. Hence by the provision we recommend that you make the elimination gradually, and thereby save the Government the difference in what the added weight of those supplies requires in pay and what it would cost in freight to transmit the same thing."

To return to the consideration of the second provision of law above quoted, and the limitations which it imposes, your attention is invited to the act of June 8, 1896 (chap. 370, 29 Stat. L., 262), reading as follows:

"That nailable matter of the fourth class shall embrace all matter not embraced in the first, second, or third class which is not in its form or nature liable to destroy, deface or otherwise damage the contents of the mail bag or harm the person of anyone engaged in the postal service, and is not above the weight provided by law, which is hereby declared to be not exceeding four pounds for each package thereof, except in case of single books weighing in excess of that amount, and except for books and documents published or circulated by order of Congress, or printed or written official matter emanating from any of the Departments of the Government or from the Smithsonian Institution, or which is not declared nonnailable under the provisions of section thirty eight hundred and ninety three of the Revised Statutes as amended by the act of July twelfth, eighteen hundred and seventy six, or matter appertaining to lotteries, gift concerts, or fraudulent schemes or devices."

In respect of this enactment the compilers of the Second Supplement to the Revised Statutes says:

"This act is a reenactment, word for word, of the act of March 2, 1879, ch. 180, sec. 20 (1 Supp. R. S., 247), with the addition of the words 'printed or written' preceding the words 'official matter'; thus excluding from the mails all official as well as private packages exceeding four pounds in weight, other than printed or written matter."

Whether or not this interpretation was correct it is unnecessary now to consider. The official and contemporaneous construction of the statute, made by certain orders and regulations of the Postmaster-General, was not in accord with the compiler's

view. The second of the provisions of the appropriation act for the postal service, first above quoted, settles this point, and when construed with the act of June 8, 1896, *supra*, debars from the mails all official matter "exceeding 4 pounds for each package thereof," except "single books weighing in excess of that amount, and except for books and documents published or circulated by order of Congress, or printed or written official matter emanating from any of the Departments of the Government or from the Smithsonian Institution."

In view of the foregoing considerations, it is my opinion that definite action under the new provisions of law above quoted should be postponed until the arrival of the next weighing period. In view, however, of the manifest intention of Congress, as shown by this legislation, as well as by debates in the last and preceding sessions, to reduce as much as possible the quantity of bulky official matter sent through the mails, it is my opinion that the duty rests upon the Post-Office Department, even before the arrival of the next weighing period, to eliminate such matter from the mail as far as may be practicable, and, within the limits of the appropriations made by Congress for that purpose, to send such matter either by freight or express. It is my understanding that for some years past the Department has been endeavoring to accomplish this result, in pursuance of the act of July 13, 1892 (chap. 165, sec. 5, 2 Supp. R. S. 34, sec. 1203, P. L. & R. of 1902), which authorizes the Postmaster-General to provide for the transportation of official matter "over any railroad or express company whenever he can do so at a saving to the Government, and without detriment to the public service;" and Congress has from time to time made appropriations for this purpose.

Very respectfully,

R. P. GOODWIN,
Assistant Attorney-General for the Post-Office Department

HON. P. V. DE GRAW,
Fourth Assistant Postmaster-General.

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
Tuesday, February 5, 1907.

POSTAGE STAMP CONTRACT.

STATEMENT OF MR. THOMAS J. SULLIVAN, DIRECTOR, ACCOMPANIED BY MR. JOSEPH E. RALPH, ASSISTANT DIRECTOR, BUREAU OF ENGRAVING AND PRINTING.

Mr. SNAPP. Will you please give the reporter your full name.

Mr. SULLIVAN. Thomas J. Sullivan.

Mr. SNAPP. And you are director of the Bureau of Engraving and Printing, a bureau attached to the Treasury Department?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. How long have you been director?

Mr. SULLIVAN. I have been director since the 1st day of July, 1906.

Mr. SNAPP. Were you connected with the Bureau prior to that time?

Mr. SULLIVAN. I was.

Mr. SNAPP. For how long?

Mr. SULLIVAN. For a period of thirty-six years.

Mr. SNAPP. How long were you connected with the Bureau as assistant director?

Mr. SULLIVAN. About twenty-three years.

Mr. SNAPP. Who was director of the Bureau during the eight years prior to July 1, 1906?

Mr. SULLIVAN. Mr. William M. Meredith was director of the Bureau from November, 1900, to that date.

Mr. SNAPP. And you were assistant director during the entire time that Mr. Meredith was director?

Mr. SULLIVAN. Yes.

Mr. SNAPP. Who is your assistant director at the present time?

Mr. SULLIVAN. Mr. Joseph E. Ralph.

Mr. SNAPP. Did he become assistant director at the same time you became director?

Mr. SULLIVAN. Yes; on the same day.

Mr. SNAPP. What were your duties as assistant director under Director Meredith?

Mr. SULLIVAN. I was the executive officer of the Bureau; in a measure the manager of the details of the work in the Bureau.

Mr. SNAPP. That is, the real operation of the plant.

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Describe in a few words, if you can, the Bureau of Engraving and Printing.

Mr. SULLIVAN. The Bureau of Engraving and Printing is organized under a section of the Revised Statutes of the United States and under an act of Congress that was passed subsequent to the revision, which authorizes the Secretary of the Treasury to print all of the securities

of the United States in the Bureau of Engraving and Printing, and to appoint such officers and employees and such assistants and help of all kinds as he may deem necessary to that end.

Mr. SNAPP. In other words, that is a Bureau where the dies, rolls, and plates are made for the preparation and issuing of bonds, notes, and stamps of the Government?

Mr. SULLIVAN. Yes, everything that is defined by law to be a security or obligation of the United States.

Mr. SNAPP. From 1900 to 1906, were the postage stamps of the Government printed at the Bureau of Engraving and Printing?

Mr. SULLIVAN. They were.

Mr. SNAPP. During that time did you have charge also of the operation of that branch of the Bureau.

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. During the period that you were assistant director under Mr. Meredith did the Bureau make any reports to the Secretary of the Treasury as to the amount that was being lost on its stamp contracts with the Post-Office Department?

Mr. SULLIVAN. I do not recall that he made any such report as that—as to the loss on the contract.

Mr. SNAPP. Did it make to the Secretary of the Treasury a report showing the cost of the postage stamps furnished the Post-Office Department for the four fiscal years, 1899, 1900, 1901, and 1902, over the amounts paid for them by the Post Office Department at the rates submitted by the Treasury Department, stated by years.

Mr. SULLIVAN. Very likely such a report was made, although I do not specifically recall it now.

Mr. SNAPP. Do you remember of assisting in the preparation of such a report?

Mr. SULLIVAN. I think there was a report of that kind made, but I only gave it superficial examination; I did not assist in it materially.

Mr. SNAPP. Did I understand you to say that as assistant director you were practically the general manager and had charge of operating department of the Bureau?

Mr. SULLIVAN. Yes.

Mr. SNAPP. Could a report of that kind be made without your assistance?

Mr. SULLIVAN. Well, I think so; yes. The accountant of the Bureau would make such a report as that to the director of the Bureau, and I would only have a supervisory direction over it.

Mr. SNAPP. To make that report it was necessary, I take it, to ascertain the cost to the Bureau of producing stamps?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Could the cost price of the manufacture of stamps of the Bureau be ascertained by the director without your assistance?

Mr. SULLIVAN. Yes.

Mr. SNAPP. Then I understand that you had, so far as you recollect, nothing to do with the preparation of the estimate of that cost during that four-year period?

Mr. SULLIVAN. No, sir. I had nothing direct at all. That was made up by the accountant of the Bureau.

Mr. SNAPP. Is the accountant of the Bureau under the director?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Also under the assistant director?

Mr. SULLIVAN. Well, no; I should not say that he was, directly. He has his own duties to perform.

Mr. SNAPP. Is he bookkeeper for the department?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Does he keep the cost account?

Mr. SULLIVAN. He does.

Mr. SNAPP. Of all the products of the department?

Mr. SULLIVAN. We have a cost account there that is stated in my annual report, and has been in operation for a number of years, but it was based upon certain rates that were charged for the work when that system was commenced, and those rates were continued down as representing the cost of those particular items, so that the work of the Treasurer of the United States representing the silver certificates and United States notes and that class of work was used as the balancing account.

Mr. SNAPP. Does this accountant keep the cost price of the output of the Bureau?

Mr. SULLIVAN. He does, in the way that I have described. He does not keep what is known as a regular cost account—that is, he has not kept that; but I have, since I have become Director of the Bureau, arranged to have, and am now arranging to have, a cost account kept that will represent the cost of each item. Heretofore, as I have explained, that cost account was put in at the rates that were established when we took the work over.

Mr. SNAPP. Those rates, then, were not ascertained, but assumed?

Mr. SULLIVAN. Assumed.

Mr. SNAPP. As a basis of calculation?

Mr. SULLIVAN. That is right.

Mr. SNAPP. But since you have become Director you are instituting a system of actual cost accounting?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. When did you begin to do that?

Mr. SULLIVAN. Since the 1st of July.

Mr. SNAPP. What progress have you made toward that?

Mr. SULLIVAN. I am making substantial progress, and I think by the end of this year I will be able to report to the Secretary of the Treasury the actual cost of the work for this fiscal year. I am now going over the work for the last fiscal year, ascertaining the actual cost, item by item.

Mr. SNAPP. Then, if I understand you, Mr. Sullivan, until this was done, there has been no system in the Bureau by which the actual cost could be accurately ascertained.

Mr. SULLIVAN. No, sir.

Mr. SNAPP. And if I understand you correctly you have not really perfected that system yet?

Mr. SULLIVAN. I have perfected the system, only I have not worked out any one year yet.

Mr. SNAPP. That is, you think you have perfected the system, but you have not yet ascertained the result?

Mr. SULLIVAN. No, sir. Of course the system is merely tentative, and will have to be modified as we go on and get experience with it.

Mr. SNAPP. Did the Bureau of Engraving and Printing submit a bid

to the Postmaster-General in answer to a request for bids for the printing of postage stamps for the Government for the four years beginning February 1, 1907, and to January 31, 1911?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. I understand that the Bureau of Engraving and Printing is a bureau of the Treasury Department.

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Was this bid submitted to the Secretary of the Treasury or by the director of the Bureau?

Mr. SULLIVAN. It was submitted by myself personally to Mr. Charles H. Keep, the Assistant Secretary of the Treasury, and thoroughly discussed with him before the bid was submitted to the Treasury Department.

Mr. SNAPP. You did not quite understand my question. Was the bid to the Post-Office Department submitted by you as director, or by the Treasury Department?

Mr. SULLIVAN. Submitted by me as director.

Mr. SNAPP. Signed by you individually as director of the Bureau?

Mr. SULLIVAN. Yes.

Mr. SNAPP. I notice that the specifications require a certain bond. Since the contract was awarded to the Bureau have you executed a bond?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Have they called upon you for a bond?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Have you ever offered a bond?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. I understand you to say that in answer to the advertisement of the Post-Office Department, you, as Director, submitted a bid which you delivered to Mr. Keep, of the Treasury Department.

Mr. SULLIVAN. No, I took it over and consulted with him in regard to it and got his authority to make the bid. I got the authority of the Secretary of the Treasury—he was Acting Secretary at the time, and he authorized me to make this bid.

Mr. SNAPP. Do you mean that he authorized you to make a bid, or that particular bid that you submitted to him?

Mr. SULLIVAN. He authorized me to make the particular bid which I submitted.

Mr. SNAPP. Who made up that bid?

Mr. SULLIVAN. That was made up by a clerk in the Bureau, in the accountant's office of the Bureau, under my personal direction.

Mr. SNAPP. Was it the accountant, or another clerk?

Mr. SULLIVAN. The accountant had general supervision of it, but the actual work was done by another clerk.

Mr. SNAPP. I did not mean the actual work, the clerical work; I don't care anything about that. But who ascertained the basis or made the final estimate of the amount to be charged, or the proposal to be made for the Bureau?

Mr. SULLIVAN. I did.

Mr. SNAPP. Upon what was that based?

Mr. SULLIVAN. Upon the figures obtained by this clerk from the records of the Bureau.

Mr. SNAPP. Ascertained entirely from the records of the Bureau?

Mr. SULLIVAN. No. I might probably explain exactly how that bid was made.

Mr. SNAPP. If you will wait a moment we will reach that in a more logical way. But finally after it was made you submitted it to Mr. Keep, and had his authority for submitting it?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Has your attention ever been drawn to a clause in the last appropriation bill for the service of the Post Office Department reading as follows:

For manufacture of adhesive postage stamps, special-delivery stamps, and books of stamps, five hundred and fifty thousand dollars: *Provided*, That no contract for the manufacture of adhesive postage stamps, special-delivery stamps, or books of stamps be made to the Government or any Department or Bureau of the Government below the cost of such work to the Government.

Was your attention drawn to that provision prior to the preparation of this proposal?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. By whom?

Mr. SULLIVAN. I read the act myself.

Mr. SNAPP. Did you have that in mind in preparing the proposal?

Mr. SULLIVAN. Fully, sir.

Mr. SNAPP. Did you afterwards, when you submitted proposals for the printing of stamps and books of stamps, indicate to the Post-Office Department in any way compliance with this provision?

Mr. SULLIVAN. I did in my letter transmitting the bid state specifically that the figures bid were within the cost of the stamps to the Bureau.

Mr. SNAPP. How did you know that it was within the cost to the Government at the time the proposal was submitted?

Mr. SULLIVAN. By a very careful and thorough examination of all the facts in the case.

Mr. SNAPP. Any examination made excepting the one that you have indicated?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. I have understood you to say that you made the proposal based upon the reports to you of the clerk in the accountant's department. Now, what I want to find out is, did you make any further or any personal examination yourself to ascertain that fact?

Mr. SULLIVAN. Yes, sir; during the preparation of the figures I made a personal examination into the facts. I sent for every chief of division in the Bureau and told them exactly what was to be done. I told them that they must go over the ground conscientiously and determine exactly what the cost in their divisions were, how many people would be necessary to do that work, the amount of material that would be necessary to do the work, what other expense, if any, they could possibly determine, and to give me a full report upon those subjects; and each chief of division did that, and I took those reports and questioned those people and cross-questioned them to develop every possible item of expense which entered into the manufacture of those postage stamps. And, then, when that was done, I determined what those figures should be.

Mr. SNAPP. After that had been done, did those figures go to the accounting clerks?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. And did they make up the total, or the estimated total or bid, or did you do it yourself?

Mr. SULLIVAN. They did.

Mr. SNAPP. What I am trying to get at is what you personally did, and not what you required others to do.

Mr. SULLIVAN. I personally supervised them, but all of this information which I gathered from the chiefs of divisions went to the accountant's office, they worked it out, and then brought it to me in the final form, and then those figures were determined upon.

Mr. SNAPP. Would it be entirely proper to say, Mr. Sullivan, that you, as Director, directed certain chiefs of divisions to prepare the necessary information which finally went to other clerks or employees in the accountant's department, who made up the estimate of cost, and upon that information and estimate you submitted a bid?

Mr. SULLIVAN. That is exactly the case.

Mr. SNAPP. Who are the chiefs of the divisions that you had ascertain these facts?

Mr. SULLIVAN. Mr. John R. Hill, chief of the engraving division; Mr. John B. Murray, chief of the wetting division; Mr. William C. McKinney, chief of the printing division; Miss Annie E. Beale, chief of the examining division; Mr. Crocker, foreman of the gumming branch; Mrs. Julia Barry, forewoman of the perforating branch; Mr. Campbell, foreman of the book-making branch; Miss Mann, chief of the packing branch—although that is a very small branch, and I don't know whether it was necessary to consult her very much because everybody in her branch was charged right against the work. She does not do anything in the branch except pack stamps, and of course every item of expense was charged right against that item; still, she was the forewoman of that branch.

Mr. SNAPP. Are there any others?

Mr. SULLIVAN. Mr. Blatchley, chief of the engineering and machine division, and Mr. A. T. Huntington, chief of loans and currency division for the counting of the paper in the Treasury Department. I think that is about all so far as I can remember, but if I think of any more I will give them to you.

Mr. SNAPP. Just add them whenever you think of them.

Mr. SULLIVAN. Yes.

Mr. SNAPP. Did you give these different chiefs oral or written instructions?

Mr. SULLIVAN. Oral instructions; they came to my room.

Mr. SNAPP. Separately or all together?

Mr. SULLIVAN. Separately and repeatedly. I told them that they were to give me a full and complete statement of the number of people, the material, every item of expense involved in the cost of postage stamps.

Mr. SNAPP. Did they report orally or in writing?

Mr. SULLIVAN. In writing.

Mr. SNAPP. To you or to the accountants?

Mr. SULLIVAN. They sent the reports to me and I sent them to the accountants' office.

Mr. SNAPP. Have you those reports or copies of them with you?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Are they preserved in your Bureau or by the Treasury Department.

Mr. SULLIVAN. Preserved in the Bureau.

Mr. SNAPP. Will you send to the committee copies of these reports so that they may be made part of this hearing?

Mr. SULLIVAN. If it desires, yes, sir.

Mr. SNAPP. Do these reports contain a list of the persons employed in the Bureau who would be dispensed with in case the stamp contract did not go to the Bureau?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Why does it contain that?

Mr. SULLIVAN. Because in the event of the stamp contract not going to the Bureau I wanted to know who we would have to lay off, and necessarily those that we would lay off would represent the cost to the Government.

Mr. SNAPP. In what way? Explain that further; I do not understand that. How would the fact that certain persons are laid off have any result on the cost to the Government?

Mr. SULLIVAN. In this way: I desired to ascertain the number of persons that were absolutely necessary in each division to the execution of the postage-stamp contract. Now having ascertained the number, I wanted to verify that by having them select that number of people, so that in the event of the postage stamps going away from the Bureau, as seemed probable, those people would be the ones that would be laid off.

Mr. SNAPP. I understand that so far; but I got the impression that you said that it had some bearing upon the cost of the production of stamps to the Government. Explain how that could affect at all the cost.

Mr. SULLIVAN. If I ascertained the number of people that are necessary to execute the postage-stamp contract in the different divisions, that represents the cost of the labor. If the chief of a division says that she has need of so many men at so much and so many women at so much, and going on down, then I wanted her to verify and prove that by selecting the people that would go in the event the postage-stamp contract was taken away from the Bureau.

Mr. SNAPP. You arrive at that by a process of elimination?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. That is, you determined how many, and who, would be eliminated in case the contract went outside?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. And you then calculate the labor cost of the contract, based upon the number who would be eliminated, and their compensation?

Mr. SULLIVAN. Precisely.

Mr. SNAPP. Mr. Hill, as I remember it, is the chief in charge of the engraving division?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Did he make up a report to you of the actual cost to the Government in his department in the execution of his part?

Mr. SULLIVAN. He did on that basis of the number of persons in his department who would be dispensed with in the event the postage stamps being eliminated from the Bureau work.

Mr. SNAPP. Now, Mr. Sullivan, that might be construed more than one way. Do you mean the number who would be dispensed with, or do you mean the number of men actually necessary and employed upon this contract?

Mr. SULLIVAN. I mean the number of men who could be dispensed with, taking the Bureau as a going concern and spending so much money—how many men out of Mr. Hill's division would be eliminated from his division if the postage stamps were taken from the Bureau, and that represents the cost to the Bureau of the postage stamps in that division.

Mr. SNAPP. Your Bureau is a growing concern, is it not?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Requiring an increase of force from time to time?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Has any recommendation that you know of been made by the Secretary of the Treasury or anyone else toward a Congressional appropriation for the enlargement of that plant or the building of a new one?

Mr. SULLIVAN. Yes, sir; there has been such a recommendation.

Mr. SNAPP. Do you remember the amount of money that was recommended?

Mr. SULLIVAN. There has not been any money recommended; that has not been ascertained. It is only the general recommendation for a new building for the Bureau.

Mr. SNAPP. It is entirely proper to assert then, is it not, that the quarters and buildings now occupied by the Bureau are not considered large enough for the expanding business of the Government?

Mr. SULLIVAN. Not for the present business.

Mr. SNAPP. And that the expansion of the business requires also from time to time an additional force. What I want to get at is this: You say that by a process of eliminating the employees whose services would not be required if the stamp contract should go to another contractor, you ascertain the cost in that department?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Do you mean to eliminate only those who could not be given other work in the department, or do you mean that an elimination from that department of every man and employee upon this contract brings about your estimate of cost in that department?

Mr. SULLIVAN. Those that were needed on that contract; those whose services would be dispensed with if the postage stamps were taken away.

Mr. SNAPP. But they might be given work in that department or other branches of Government work, might they not?

Mr. SULLIVAN. If there was other work there for them to do.

Mr. SNAPP. There is always a demand for additional men, is there not, in that department?

Mr. SULLIVAN. No.

Mr. SNAPP. Is that department working overtime?

Mr. SULLIVAN. Yes.

Mr. SNAPP. All the time?

Mr. SULLIVAN. No, not all the time, but occasionally.

Mr. SNAPP. What portion of the time are they working overtime?

Mr. SULLIVAN. I could hardly give you that; it is spasmodic.

Mr. SNAPP. Is that because the facilities of the building do not permit the employment of enough men if you could obtain them to do the work without working overtime?

Mr. SULLIVAN. No, I think not altogether. It is because of the spasmodic nature of the orders. The orders from national banks will come in very rapidly at a certain time, and we have got to get the work done. It is necessary to work the department overtime in order to get that work out. Then after we get those orders done we come down to the natural and regular hours again.

Mr. SNAPP. Then it may always be necessary at certain periods to work overtime, regardless of your facilities and the number of men?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Did you make any investigations yourself to ascertain the correctness of the reports of these chiefs of divisions to you?

Mr. SULLIVAN. Yes; I went over it with them carefully, and I reached the conclusion that they were correct.

Mr. SNAPP. You went over it with them after they had gone over them and reported to you?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Where is the paper obtained upon which stamps are printed.

Mr. SULLIVAN. It is made at Mechanic Falls, Me., now by the Pullman Paper Company.

Mr. SNAPP. To whom is it consigned?

Mr. SULLIVAN. To the Secretary of the Treasury, care of the division of loans and currency.

Mr. SNAPP. And issued by them to your Bureau?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. By whom is it counted and issued?

Mr. SULLIVAN. By the counters in what is known as the paper room in the Treasury Department.

Mr. SNAPP. And did you rely entirely upon their estimate as to the cost of doing that?

Mr. SULLIVAN. Yes, sir; I made a request on the chief of the division of loans and currency to report the number of counters that would be eliminated from his service if the counting of postage-stamp paper was discontinued, and he made that report.

Mr. SNAPP. Who has charge of the building occupied by the Bureau; is it under the Director?

Mr. SULLIVAN. No, the captain of the watch is held responsible for the building; for the proper care and control of the building.

Mr. SNAPP. How much space is occupied by the stamp manufacturing department?

Mr. SULLIVAN. The work of the engraving division is done in that division without any separation of the work upon the stamps from the other work.

Mr. SNAPP. Do you mean that the engraving of the dies, rolls, and plates for the printing of stamps is done in the same division where they are made for the printing of other securities of the Government?

Mr. SULLIVAN. Yes, sir. The work of the wetting room was, until recently, done in the same way. Recently I gave them an additional room, and at that time I took occasion to prove up the accuracy of the figures that the chief of the wetting division gave me. In this room I

put the number of people that he estimated as necessary to the work upon the postage stamps in that room alone, and they handled the postage stamps with some other additional work—very little other additional work—and I found that his estimate worked out correctly.

Mr. SNAPP. Let us go back to this other division. What part of the space occupied by the engraving division is devoted to this stamp contract?

Mr. SULLIVAN. There is not any specific space devoted to it at all.

Mr. SNAPP. What per cent of all the space can be properly charged to this contract?

Mr. SULLIVAN. I have never looked at it from that point of view.

Mr. SNAPP. Was any of the space so charged; was any of the space in the entire building necessary and used for the execution of this contract charged up to the expense of the contract?

Mr. SULLIVAN. I have no way of charging an expense account in that way.

Mr. SNAPP. Did you ascertain the per cent of space made necessary by the execution of this stamp contract of the entire building occupied by your Bureau?

Mr. SULLIVAN. As the space did not involve dollars and cents, it was not included in the cost.

Mr. SNAPP. Then, in making up the cost to the Government of the manufacture of postage stamps before you made this proposal, did you include any item of cost for space in the building?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Then, as I understand you, really all you know in regard to the cost in the engraving division is obtained from Mr. Hill's report to you.

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. And your estimate is based entirely upon that?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. How do you, or does your department, store the dies, rolls, and plates used in the manufacture of stamps?

Mr. SULLIVAN. They are stored in the vault that is used for the securities of the United States, known as the miscellaneous vault.

Mr. SNAPP. That is, they are stored with other dies, rolls, and plates used in the printing of what you would call currency and money of the Government, and not separated?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. In making up your estimate of cost of this contract for the manufacture of stamps, did you estimate as a part of that cost any part of the value of those storage vaults or the space occupied by them as a part of the building occupied by the Bureau?

Mr. SULLIVAN. No, sir; they were there.

Mr. SNAPP. Has the Government recently constructed a large and expensive vault for that purpose?

Mr. SULLIVAN. Not very recently.

Mr. SNAPP. Within how long a time?

Mr. SULLIVAN. Five or six years ago.

Mr. SNAPP. Is it true to say that it is large and expensive?

Mr. SULLIVAN. It is.

Mr. SNAPP. Do you know what it cost?

Mr. SULLIVAN. Something like \$40,000. That was all necessary for the work of the Government, absolutely necessary for the work of the

Government, and not one dollar less would have been expended if the postage stamps had been omitted. So that expense was absolutely a necessary expense, and that is the basis on which this entire estimate was made.

Mr. SNAPP. I am not arguing that; I am trying to ascertain the facts. As a matter of fact, you did not estimate in making up the cost to the Government any part of the space occupied by this contract in the building or in the vaults or in the storerooms necessary for the storage of stamps.

Mr. SULLIVAN. No, sir, for the reason that they were all facilities of the Government there that would not have been reduced if the stamp contract had not come to us.

Mr. SNAPP. Is it not a fact that if the stamp contract should be taken from that Bureau that you would have immediate demand and use for all the space now occupied by the stamps and more, too?

Mr. SULLIVAN. And more, too, yes, sir; but that does not cost the Government anything so far as —

Mr. SNAPP. That is a matter of argument, as I say. Where was the machinery obtained to perform this contract?

Mr. SULLIVAN. It was obtained in 1894 from various firms.

Mr. SNAPP. What does it consist of?

Mr. SULLIVAN. It consists of 16 power printing presses, 8 gumming machines, perforating machines, stitching machines—I think that about covers it—and other machinery incident thereto.

Mr. SNAPP. Are they hand or power machines?

Mr. SULLIVAN. All the machinery that enters into the making of postage stamps is power machinery.

Mr. SNAPP. From where do they derive the power?

Mr. SULLIVAN. From the main power room of the Bureau.

Mr. SNAPP. Is that steam or electricity?

Mr. SULLIVAN. Electricity.

Mr. SNAPP. Manufactured in the building?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. By steam?

Mr. SULLIVAN. Of course; the origin is the steam.

Mr. SNAPP. That is, you have ordinary boilers, dynamos, and everything else for the manufacture of electricity?

Mr. SULLIVAN. Yes, sir; engines, and so forth.

Mr. SNAPP. Is it conveyed to these machines by shafting?

Mr. SULLIVAN. By wires; direct motors to each machine.

Mr. SNAPP. Did you estimate, or did anyone estimate, as a part of the cost to the Government of manufacturing these stamps, anything for the use of or production of power?

Mr. SULLIVAN. Yes, sir; the chief of the engineering and machine division estimated the cost of the power.

Mr. SNAPP. Will you explain why you did that, but estimated no part of the building and the space occupied in connection with this contract either in the building or the vaults?

Mr. SULLIVAN. Because in the matter of vaults, as I say, they cost some \$40,000, yet that expenditure would have been absolutely necessary whether the postage stamps were there or not. The space was there, and in like manner there was no direct cost.

But in the matter of power there was a direct outlay for that and of course if we were not running those machines that power would

be reduced to that extent; and to the extent that it was reduced, or would have been reduced, we estimated the cost.

Mr. SNAPP. Is it not equally true that your power plant would be necessary to the running of the other branches of the Department?

Mr. SULLIVAN. The power plant itself; yes, sir. We did not charge anything against the first cost of the power plant, but the power that we produce from day to day will vary by the work we do, and, therefore, as that varies from day to day, if all of the machinery were out to-morrow, that would fall down; so we charged that cost.

Mr. SNAPP. Did you charge up toward the cost of this contract its proportionate cost of the entire power plant, or did you charge as a part of the cost of this contract so much per volt, or some other unit?

Mr. SULLIVAN. The proportionate cost of producing the current from day to day.

Mr. SNAPP. That is, you charged as a cost in this contract its proportion of the cost of all the power produced by this plant?

Mr. SULLIVAN. Yes, sir; all the power.

Mr. SNAPP. What per cent of the whole was that?

Mr. SULLIVAN. I can not state that from memory.

Mr. SNAPP. How was that ascertained?

Mr. SULLIVAN. By carefully going over the cost of the plant.

Mr. SNAPP. Then have you no further explanation of the reason why you did not ascertain in the same way what proportion of the entire building was occupied by this contract and apportion its cost also in the same way?

Mr. SULLIVAN. No; because there would be no diminution in the expenditures of the Bureau by reason of the space occupied.

Mr. SNAPP. Let me call your attention to a clause in the specifications on page 7, item No. 30:

The contractor shall furnish without cost to the Government suitable office room, properly furnished and heated, which may be required to be connected and directly communicating with the premises upon which the postage stamps and books of stamps are manufactured, with adequate janitor service, for the use of the representative of the Department and his clerks in the transaction of their business. The contractor may also be required to furnish without charge suitable and proper furnished rooms of reasonable temperature for the use of the Post-Office Department in registering and mailing packages of postage stamps and stamp books.

Do I understand you to say that there was nothing estimated in making up the cost price of this contract for the space required for that purpose?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Item No. 34:

The contractor will be required to manufacture the postage stamps and books of stamps in a strictly first-class building, which shall contain a fireproof storage room fitted with fire and burglar proof door, and of sufficient capacity for the storage of not less than 600,000,000 ordinary and postage-due stamps, 1,300,000 special-delivery stamps, and 1,100,000 12-stamp books, 300,000 24-stamp books, and 100,000 48-stamp books, and said building to be subject to the approval of the Postmaster-General.

Item No. 35:

The bidder will be required to describe in his proposal the building in which he proposes to manufacture the postage stamps and books of stamps, stating the amount of space to be used for that purpose; or, if he intends to erect a building, that fact must be stated. Preliminary to an award, any bidder may be required to submit plans of the building in which he proposes to manufacture the postage stamps and books of stamps if awarded the contract, and, if the Department so desires, to afford its representatives an opportunity of making an inspection of the premises.

The contractor must provide at his expense a night watchman, and the building must be policed or guarded at all hours of the day and night in such manner as the Department may require.

In making up your estimate of cost to the Government of performing this contract did you estimate anything for the item of space, of heat, of light, of janitor and police service?

Mr. SULLIVAN. We did of heat and light, but nothing for space or janitor service, or anything of that kind.

Mr. SNAPP. Or any watchman or vault room.

Mr. SULLIVAN. No, sir.

Mr. SNAPP. How did you look upon these specifications?

Mr. SULLIVAN. I looked upon those specifications as being prepared more for the guidance of private bidders than for the Bureau of Engraving and Printing, for the reason that the Bureau was executing these stamps to the satisfaction of the Post-Office Department in the space and in the building that they had been executing them for some twelve years, and that therefore it was assumed that the building and the space and everything connected with those matters were satisfactory to the Post-Office Department, and if they desired to continue the work of manufacturing the stamps there, it would continue as it had been done. When we first took over the matter of making these stamps, there was an office for the postage-stamp agency. That office was found not to be sufficient for the agent, and he went off and rented a building on F street costing \$600. That was an item of cost against the work. But Congress knocked that item out about a year or two ago, and of course there was no longer any item for an office for the superintendent, and we had nothing to do with that at all.

Mr. SNAPP. Would it be proper, then, to say, Mr. Sullivan, that you naturally concluded that the requirements of these specifications should not be as rigidly enforced if a contract was to be executed by the Government Bureau of Engraving and Printing?

Mr. SULLIVAN. My idea was that they would be rigidly enforced against the Bureau wherever they applied to the Bureau, but where the application was manifestly not intended for the Bureau they would not be enforced.

Mr. SNAPP. Take this instance—item No. 47 of the specifications:

No other work than the manufacture of postage stamps and books of stamps shall be conducted in the apartments used for that purpose.

Is there anything else, any other business conducted in the apartments used for that purpose?

Mr. SULLIVAN. Yes, sir; there is. That was one of the cases where manifestly the specifications would not be enforced against the Bureau, for the reason that it had been done in that way for twelve years past.

Mr. SNAPP. What other requirement in the specifications, do you think, would not be enforced as against the Bureau?

Mr. SULLIVAN. Manifestly the bond specification: the requirement of a bond would not be, because it had not been during the past twelve years. And that illustrates the character of the specifications which I assume would not be rigidly enforced. But all others, where the Bureau was responsible as to the character of work and the responsibility for it and the accounting of it, every item that was material in the agreement between the Secretary of the Treasury and the Postmaster-General would be rigidly enforced against the Bureau.

MR. SNAPP. Would it be fair to say, then, that you estimated that, by the not too strict enforcement of some of these provisions, the Bureau could afford to shape its bid based somewhat upon that fact, and that the Government or its Bureau could manufacture stamps under that contract cheaper on that account?

MR. SULLIVAN. Undoubtedly.

MR. SNAPP. Then, Mr. Sullivan, that, of course, brings us to this conclusion: That the purpose of the Post-Office Department in issuing these specifications to the general public and seeking proposals for the execution of this contract were thwarted in their purpose by a proposal made up in this way—that is, outside contractors who, in good faith, bid for this contract must necessarily get the worst of it. Isn't that so?

MR. SULLIVAN. That would not apply to the American Bank Note Company, where they have the buildings and affairs shaped up?

MR. SNAPP. You hardly mean that, do you? Certain space in any building would be necessary for the execution of this contract, would it not?

MR. SULLIVAN. Yes, sir.

MR. SNAPP. And in estimating the actual cost of a business, the capital invested in it should be taken into consideration, should it not?

MR. SULLIVAN. Oh, yes; in a private concern that would be necessary.

MR. SNAPP. You bid as Director of this Bureau on this contract under public specifications that were open to all alike, and in submitting that bid did you stand in any other position to the Post-Office Department than an individual stood?

MR. SULLIVAN. I think so. I think that inasmuch as it was a bureau or branch of the Government service, and it could execute the work of the Government for that amount of money, that it was proper to submit that bid in that way and give the Government the advantage of the outlay that the Government was making for other purposes.

MR. SNAPP. Did you report to the Postmaster-General, or anyone, that if the contract was not executed by your Bureau it would result in the loss of the amount of money invested in the machinery used in producing stamps?

MR. SULLIVAN. I made that statement before the committee who opened the bids.

MR. SNAPP. Were you present at any time when there was a consultation between the Postmaster-General and other officers of the Department over this matter?

MR. SULLIVAN. No, sir.

MR. SNAPP. You were present, however, at the time the bids were opened?

MR. SULLIVAN. Yes, sir.

MR. SNAPP. And you there made a statement that the machinery used by the Government for this purpose would be lost?

MR. SULLIVAN. I did not make it at the time the bids were opened, but subsequently when the committee who opened the bids were considering the matter; and before they made their report to the Postmaster-General I appeared before them and made that statement.

MR. SNAPP. What did you estimate the loss to be?

MR. SULLIVAN. \$150,000.

MR. SNAPP. Is that the value of the machinery and appliances now, or was it the cost price paid by the Government?

Mr. SULLIVAN. The value now; I think a very close estimate of the present value of that machinery.

Mr. SNAPP. Was that estimate made at the time that this proposal was being prepared?

Mr. SULLIVAN. No, sir; there was no estimate made at all. It was my own individual judgment as to the value of the machinery.

Mr. SNAPP. In making up your proposal to ascertain the cost of performing this contract, did you estimate as a part of that cost the capital invested in this machinery?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. You just assumed that, like the building, as being on hand and necessary for the Government; or the Government had it now, and because it did not require an expenditure of new money therefore it was excluded from the calculation?

Mr. SULLIVAN. Yes, sir; that is, the cost of operating alone was considered; but of course, on the other hand, it would be a dead loss to the Government if it was not used.

Mr. SNAPP. Under what principle of accounting did you exclude the cost and value of the machinery in the first estimate, and then reckon it as a dead loss to the Government on the other side of the account? I understand that you did not estimate this in making up your account as an item of cost to the Government.

Mr. SULLIVAN. No.

Mr. SNAPP. Then why do you estimate it on the other side as a loss to the Government if you lose the contract?

Mr. SULLIVAN. I didn't estimate it as a direct loss to the Government in money, but I said to the committee that the Government would have to throw away machinery which was worth \$150,000. I did not at any point bring it in as an estimate of cost. I stated to the committee what I considered to be a fact, that if that machinery was thrown away it would not be a loss to the Government as an outlay, or no part of the cost of the stamps as an outlay; but there is the machinery, and if it was disused it was throwing away \$150,000 worth of magnificent machinery, the finest, probably, in the world.

Mr. SNAPP. Why do you say it would be an entire loss to the Government, if that is true?

Mr. SULLIVAN. I did not say that it was an entire loss to the Government, but I say it would be thrown away.

Mr. SNAPP. Is it not a fact, Mr. Sullivan, that in finally determining to award this contract to the Bureau of Engraving and Printing upon their bids, considerably higher than that of the American Bank Note Company, there was taken into consideration the statement that this \$150,000 worth of machinery would be a loss to the Government?

Mr. SULLIVAN. I don't know whether they took it into consideration at all.

Mr. SNAPP. Did you?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Did you urge it?

Mr. SULLIVAN. I stated it as a fact for the consideration of the committee in reaching a conclusion. I stated to them that the Bureau of Engraving and Printing had the finest plant for the manufacture of postage stamps in existence; that that plant was, in my judgment, as it stood, worth \$150,000, and that if the stamps went away from the Bureau, that plant would be useless.

Mr. SNAPP. You stated, I have no doubt, to the Department those facts in that way and to that extent to show that this should be included with the cost to the Government in executing this contract.

Mr. SULLIVAN. No, I did not take that into consideration at all, and it was not stated there at any time in connection with the cost, and it does not enter into it.

Mr. SNAPP. You undoubtedly meant it as an argument in favor of the allowance of this contract to the Bureau of Engraving and Printing upon a bid much higher than that of its competitor.

Mr. SULLIVAN. Yes; but it would not become an element of expense of the Government unless the bid was rejected. Of course, if the bid was accepted it would not become an element of expense, and would only become so in the event of the bid being rejected.

Mr. SNAPP. As I understand it, you do not know of your own knowledge whether in the engraving division an estimate was made for the following services—for artist and photographer—do you?

Mr. SULLIVAN. I do know of my own knowledge that no such estimate was made.

Mr. SNAPP. They are necessary, are they not?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. But no estimate was made?

Mr. SULLIVAN. No part of their cost was included in the cost of the postage stamps.

Mr. SNAPP. Do you know whether the cost of the engravers for the original dies was included?

Mr. SULLIVAN. They were not.

Mr. SNAPP. Are their services necessary in the preparation of the dies, rolls, and plates used in the printing of stamps?

Mr. SULLIVAN. They are necessary; but if the postage stamps were taken away we would not dispense with the services of a single engraver.

Mr. SNAPP. You mean by that, do you not, that you would put them on other work?

Mr. SULLIVAN. Yes, sir; but you see we would not dispense with the services of a single engraver.

Mr. SNAPP. I don't say that you would not, but I am asking you if you did not mean by that that you would put them on other work?

Mr. SULLIVAN. If we had it, but if we didn't have the other Government work, and the prospects were that we would not have it at all times, then we would not get full value of their services. If we have the postage stamps there and work them, then we get the maximum amount of work from each engraver, and we are therefore utilizing those engravers in the execution of the Government's work that would be paid for from another source.

Mr. SNAPP. I understand fully the fact that you did not include them, but I do not understand your explanation.

Mr. SULLIVAN. It is a perfectly clear thing.

Mr. SNAPP. To me it is just about as clear as mud. Are there persons employed in the Department called provers?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Was anything included in the estimate as to the cost of the provers?

Mr. SULLIVAN. I don't think so.

Mr. SNAPP. Or the making of rolls?

Mr. SULLIVAN. Yes, I think there was. There is this one point, Mr. Snapp, that I want to go back to in connection with one of my answers. I have been looking around here at what Mr. Ralph brought up and I find that he has some papers that I did not know about, and when I said I did not have copies of certain papers, I was under a misapprehension. I find them here, and what he has here will probably enable me to answer about the roll makers.

Mr. SNAPP. Very well, you may refer to them if you desire.

Mr. SULLIVAN. Yes, the rolls were included.

Mr. SNAPP. Was there included: For making plates to print from?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. That is, you mean to say that the cost of that item is included.

Mr. SULLIVAN. The cost of making the plates; that is, the necessary employees—I would not like to answer too close, but I find here an estimate, "renewal of plates," so many plates and so many rolls were made in the engraving division at a cost of so much, and the grinding of plates cost so much, so that that includes the plates and the rolls.

Mr. SNAPP. That is the entire cost including the labor and material.

Mr. SULLIVAN. Yes, sir, so far as the labor—the actual labor that was necessary, that the chief of that division deemed essential and necessary and exclusively devoted to that work—was concerned; or, in other words, the number of those people that would be eliminated from his division if the postage stamps were eliminated.

Mr. SNAPP. I do not agree now with your reasons for stating that.

Mr. SULLIVAN. But I want to have you clearly understand just why I say that labor cost is included in there.

Mr. SNAPP. I understand your statement, but I do not understand your explanations at all.

Is there an estimate of cost of hardening and proving plates also?

Mr. SULLIVAN. I haven't the details here to enable me to answer exactly as to the hardening and proving, although my information is that that was included.

Mr. SNAPP. Is the machinery used for the transferring to plates of impressions from the dies and rolls used also for other purposes?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Was any part of the cost of the value of those machines estimated?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Was any part of any machinery, or building, or any capital investment by the Government in your Bureau that was used for other purposes also included as a part of the cost of this contract?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. You have machinery there for transferring, grinding, beveling, hardening, etc.

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Expensive machinery?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. And no part of the cost or value of that is included in your estimate of cost in making the proposal for this contract?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Did the chief of that division estimate the number of plates that would be required per year under this contract to execute it?

Mr. SULLIVAN. We ascertained the number of plates that had been

made during a certain period, and the cost of them, and then we ascertained the number of impressions that were made during the same period, and we got a rate per thousand sheets for the renewal of the plates.

Mr. SNAPP. Is there an officer in your Bureau called the custodian of dies and plates?

Mr. SULLIVAN. There is.

Mr. SNAPP. An officer of the Treasury Department?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Does he have clerks under him?

Mr. SULLIVAN. A few. He has assistants.

Mr. SNAPP. How many?

Mr. SULLIVAN. There is the custodian, two subcustodians, and two or three distributors of stock. That constitutes his force—five.

Mr. SNAPP. Do their names appear upon the rolls of your Bureau?

Mr. SULLIVAN. No, sir; they are entirely separate and distinct. They appear upon the rolls of the Department.

Mr. SNAPP. A part of their time is expended, is it not, in connection with dies, rolls, and plates used in the printing of stamps?

Mr. SULLIVAN. They handle those and take care of them.

Mr. SNAPP. Was any part of that cost estimated in your estimate of cost under this contract?

Mr. SULLIVAN. No, sir; for the reason that that force would not be reduced if the postage stamps should be taken away.

Mr. SNAPP. Then wherever in your department there is a division of work, including the services under this contract, and services in producing other securities of the Government, you made no separation in making up this proposal?

Mr. SULLIVAN. Oh, yes.

Mr. SNAPP. In all instances where machinery and employes are used alike for the production of stamps and other securities of the Government, I understand from what you have said that you estimated no part of that in figuring the cost of executing this contract. Is that true? I think you have already said that where the machine is used for other purposes you made no estimate—

Mr. SULLIVAN. Of the cost of machinery?

Mr. SNAPP. Of the cost of machinery.

Mr. SULLIVAN. No.

Mr. SNAPP. Or cost of operation?

Mr. SULLIVAN. Yes.

Mr. SNAPP. I understood that you estimated the cost, in executing this contract, of power used in running the machinery for producing the stamps.

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Is any estimate made of the cost of the power used in running the machinery in the engraving division?

Mr. SULLIVAN. There is no power or machinery used in there.

Mr. SNAPP. These transfer presses and machinery for grinding, beveling, and hardening require power, do they not, or are they hand presses?

Mr. SULLIVAN. The transfer press is a hand press, but the grinding and beveling was charged wherever there was power used on a press for the postage stamps. We followed it right down to the machine and charged it.

Mr. SNAPP. Do you require the services of chemists in your department?

Mr. SULLIVAN. We do.

Mr. SNAPP. At work on the production of stamps and the production of other securities of the Government?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Was any part of their salaries estimated as a part of the cost of executing this contract?

Mr. SULLIVAN. No, sir; their services are absolutely necessary.

Mr. SNAPP. How about machinists?

Mr. SULLIVAN. We estimated the cost of the machinists.

Mr. SNAPP. What machinists?

Mr. SULLIVAN. We estimated the cost of machinists so far as they were necessary to keep in repair and in good condition the machinery connected with postage stamps.

Mr. SNAPP. Why did you not also include a part of the cost for a chemist?

Mr. SULLIVAN. We have one chemist, and we could not possibly dispense with his services or any part of his services if the postage stamps were eliminated.

Mr. SNAPP. Did you estimate, as a part of this cost, the salaries of any clerks in the Department?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. What you thought was a fair division between the different branches, I suppose?

Mr. SULLIVAN. What were absolutely at work on postage stamps.

Mr. SNAPP. Is there a general force of clerks in the Bureau who may spend part of their time upon the stamp part of the business as well as other branches of the Department?

Mr. SULLIVAN. Possibly it might be said that there were some, but where those men or women are engaged upon the work and their services could not be dispensed with in the event of the postage stamps going out, then no charge was made for their services. It would be simply a decrease in their work, but no saving of expense to the Government.

Mr. SNAPP. Then, in estimating the real cost of producing these stamps under these specifications, you have not figured as an item of cost any items that would not save money to the Government.

Mr. SULLIVAN. That is right, sir; that would save expenditure of money to the Government.

Mr. SNAPP. Even though another bidder under these same specifications might have to go to the extent of supplying those very things?

Mr. SULLIVAN. But we had nothing to do with that at all. We were aiming to save money to the Government and to determine what reduction in the expenditures of the Bureau would be made necessary if the postage stamps were eliminated, and that is the cost of the work to the Bureau.

Mr. SNAPP. How is the paper transferred from the Treasury Department to the Bureau?

Mr. SULLIVAN. It is hauled in wagons.

Mr. SNAPP. Did you make an estimate of that or did the Treasury Department or was no estimate made because it was done by Government teams?

Mr. SULLIVAN. I am a little bit uncertain on that item—I can not answer that from memory.

Mr. SNAPP. Is the paper for the stamps counted in the Bureau?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. By counters engaged also in counting other securities?

Mr. SULLIVAN. Yes, sir; at that time.

Mr. SNAPP. At the time this proposal was made?

Mr. SULLIVAN. Yes, sir; they were engaged in counting all sorts of work.

Mr. SNAPP. Was their time or expense divided and an estimate of that cost made in this proposal?

Mr. SULLIVAN. Yes, sir; and that has since been verified by transferring all that work to a separate division, and it came out right.

Mr. SNAPP. Did you divide the cost of laundering?

Mr. SULLIVAN. We charged the laundry work.

Mr. SNAPP. You made a charge against this contract for laundering?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. And for wetting?

Mr. SULLIVAN. For wetting.

Mr. SNAPP. And of all clerks employed in the Department or only those directly connected with the contract?

Mr. SULLIVAN. Only where their services would be absolutely dispensed with and a saving effected by eliminating the postage-stamp work.

Mr. SNAPP. Also for light?

Mr. SULLIVAN. Light.

Mr. SNAPP. For heat?

Mr. SULLIVAN. For heat.

Mr. SNAPP. But none for storage?

Mr. SULLIVAN. No.

Mr. SNAPP. And nothing for the original cost of the machinery?

Mr. SULLIVAN. No; but there is an estimate of the machinery that might be needed during the four years of the existence of this contract.

Mr. SNAPP. Did you make an estimate of the cost of repairing the machinery?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Is there any printing necessary in the execution of this contract?

Mr. SULLIVAN. Yes.

Mr. SNAPP. Was that all estimated?

Mr. SULLIVAN. That was all estimated.

Mr. SNAPP. Have you printers in your Bureau?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. How many?

Mr. SULLIVAN. There are some eight or nine hundred.

Mr. SNAPP. I mean in the execution of this contract.

Mr. SULLIVAN. Oh, yes; we have about 16 that are engaged, and every bit of that was charged.

Mr. SNAPP. Have you printers also engaged on other work?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. In that case was a portion of their time or expense apportioned to this contract?

Mr. SULLIVAN. Every bit of the time that they spent on postage

stamps was charged to this contract. We have that in a room by itself, practically, and since then I have started up some additional presses; but that is a place where the actual cost was entirely charged against the postage stamp contract, for the reason that if we did not execute the postage stamps, every printer and printer's assistant working on those presses would be eliminated, and no expenditure would be made by the Bureau on account of their work. Therefore if the postage stamps were eliminated or transferred from the Bureau, every dollar that was paid to them would be a saving to the Government, and every dollar of that was included in the estimate of cost.

Mr. SNAPP. But wherever it would not result in the elimination of these men engaged in these other branches of the Bureau, none of their time or expense was charged against your cost?

Mr. SULLIVAN. No. In the matter of the plate printers, they work by the piece, and whatever they did on plate printing would be charged against them; but, for instance, the chief of the printing division, who supervises the whole work of plate printing, none of his salary was charged, for the reason that if the postage stamps were taken out he would not be dispensed with. It would simply lessen his value to the Government to that extent, but would be no saving to the Government.

Mr. SNAPP. I understand what you mean, and I am only trying to direct your attention to special cases.

Mr. SULLIVAN. I want to make it perfectly clear.

Mr. SNAPP. Have you an examining division?

Mr. SULLIVAN. Yes.

Mr. SNAPP. How much of a force have you there?

Mr. SULLIVAN. Between three and four hundred.

Mr. SNAPP. Do they examine and count postage stamps and other securities?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Then I take it that from your explanation no part of the expense or cost of that force is apportioned to the cost of this contract?

Mr. SULLIVAN. Yes, that portion of it which was determined to be the force necessary to execute the postage stamps was apportioned to this contract, and that was determined by the number of people who could be eliminated from that division.

Mr. SNAPP. Was it ascertained that any could be eliminated?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. How many?

Mr. SULLIVAN. Thirty-three employees would be eliminated.

Mr. SNAPP. That is, there would not be any work for them?

Mr. SULLIVAN. Would be eliminated; costing in total salaries, \$19,680.

Mr. SNAPP. Are you prepared to say that only 33 are necessary in that division in the execution of this contract?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. And that if this contract were to be executed by your Bureau in some other place entirely disconnected with it, you would need only 33 persons in that division?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. That is what you mean?

Mr. SULLIVAN. That is what I mean. Of course I do not mean

that to involve the chief of that division, because she is there and is supervising that work. But of course her services are made just that much more valuable to the Government.

Mr. SNAPP. Is that true also of the perforating division?

Mr. SULLIVAN. In the perforating division the entire force—the forewoman, helpers, counters, perforators—that is all done by itself in a room by itself, and the entire force is charged against that, including the forewoman and everybody connected with it.

Mr. SNAPP. How about the packing room?

Mr. SULLIVAN. The same; everybody connected with the packing room is charged against that contract.

Mr. SNAPP. They are all engaged in the packing of stamps, and nothing else?

Mr. SULLIVAN. Nothing else; and every dollar of the money that is paid to them is charged against that contract.

Mr. SNAPP. I suppose in the execution of this contract horses and vehicles are necessary.

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Used probably also in other work of the Bureau.

Mr. SULLIVAN. Yes.

Mr. SNAPP. Are those cost items separated and part charged to the execution of this contract?

Mr. SULLIVAN. When we undertook that work that was one of the elements there that we considered as advantageous to the Bureau. We had those men, we had the horses, and we had all the vehicles to deliver work to the Treasury Department, and we used those very identical men to deliver the postage stamps, so that we utilized the services of those men and horses; in other words, we got that much more work out of them. Yes; we did make a charge for the stable.

Mr. SNAPP. If the question should be reversed, and the proposition should be made to eliminate from your department the production of the other securities of the Government, and the same process of reasoning pursued that you have pursued in this case, it would result rather awkwardly for the Government, would it not?

Mr. SULLIVAN. No; I think not; it would go on down until each item was eliminated, and until we came down to the last item which the Government desired to maintain the Bureau of Engraving and Printing for, and the cost of that item would be necessarily increased; so that so long as the United States desires to maintain the Bureau of Engraving and Printing, the larger the volume of work which it puts into the Bureau, the proportionately cheaper the work can be done.

Mr. SNAPP. You understood, did you not, from the reading of this law, that Congress showed some indifference about keeping the contract, and threw it open to public competition.

Mr. SULLIVAN. I did not understand precisely what the object of Congress was, and I could only gain it from the law.

Mr. SNAPP. Did you not conclude from the law that it was the purpose of the Government to open this to public competition?

Mr. SULLIVAN. Yes, I think that was the item.

Mr. SNAPP. Do you believe that there was a fair opportunity for outside competition in bidding on this contract in this case?

Mr. SULLIVAN. I do.

Mr. SNAPP. Do you still believe that your statement accompanying this proposal, that it was within the cost to the Government, is fair?

Mr. SULLIVAN. I do.

Mr. SNAPP. Would you state the account in the same way if you as a private individual had seen fit to make a bid for that contract, and were required to establish a plant for the purpose of executing it?

Mr. SULLIVAN. I think the circumstances would be wholly different.

Mr. SNAPP. I want an answer to my question.

Mr. SULLIVAN. I think the circumstances would be wholly different.

Mr. SNAPP. Would you ascertain the cost of manufacturing stamps in the same way under those conditions?

Mr. SULLIVAN. I think the circumstances would be wholly different, and I could not put myself in the position of a private individual.

Mr. SNAPP. I am just asking you to do that.

Mr. SULLIVAN. I do not see how I could under the circumstances. I would not have the plant, as the Government has, and I would not have the facilities that the Government has, and of course I would have to provide them, and, having to provide them, I would have to make a charge of the cost.

Mr. SNAPP. I understand that you are really the general manager of that business for the Government?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Would you, as general manager of this business, if, without any facilities for executing this contract, you had seen fit to bid upon it, estimate the cost of producing stamps as you have estimated the cost of producing them under this contract?

Mr. SULLIVAN. Circumstances would be wholly different, and therefore I could not do it. The circumstances would be wholly different. If the circumstances were the same the estimate would be the same.

Mr. SNAPP. Mr. Sullivan, it is apparent from my question that the circumstances could not be the same.

Mr. SULLIVAN. Certainly not.

Mr. SNAPP. I want an answer. Would you estimate the cost price in the same way that you have these under those circumstances?

Mr. SULLIVAN. I could not. If I were to be required to furnish a plant, how could I estimate them the same?

Mr. SNAPP. You could not, Mr. Sullivan; I am surprised in your hesitating to say so.

Mr. SULLIVAN. I do not hesitate to say so. I have not hesitated a moment in my answer. I say the circumstances are wholly different, and therefore the estimate would be wholly different.

Mr. SNAPP. Certainly it would be; no man on earth that had a mouthful of sense would estimate it in the same way.

Mr. SULLIVAN. That is a matter of opinion.

Mr. SNAPP. That is your opinion, isn't it?

Mr. SULLIVAN. No, sir.

Mr. SNAPP. Let us see how far apart we are, then. I asked you if you as an individual, without a plant, desiring to bid on this contract, would estimate the cost of producing stamps in the same way that you have estimated the cost under this contract?

Mr. SULLIVAN. I say that the circumstances being wholly different I, of course, would not and could not.

Mr. SNAPP. Did you not understand that Congress intended to place all bidders on this work in exactly the same circumstances when it required the actual cost of doing the work to be ascertained?

Mr. SULLIVAN. No, sir; I understood that Congress wanted the actual cost to the Government to be ascertained.

Mr. SNAPP. Do you still insist that you ascertained the actual cost?

Mr. SULLIVAN. I do.

Mr. SNAPP. As your competitor did?

Mr. SULLIVAN. That is a different circumstance—different altogether. The circumstances are different. We have to ascertain the cost to the Government.

Mr. SNAPP. And they had to ascertain the cost to them?

Mr. SULLIVAN. That is it exactly.

Mr. SNAPP. Well, in ascertaining the true cost between the two individuals, you would not pursue any other or different methods, would you?

Mr. SULLIVAN. If circumstances justified it and warranted it, certainly.

Mr. SNAPP. Do you mean to say now that in estimating the cost of producing a manufactured article that there is more than one method?

Mr. SULLIVAN. Depending upon circumstances.

Mr. SNAPP. More than one true method?

Mr. SULLIVAN. I think there is, depending upon the circumstances of the case. I think in this case that the estimate of cost was covered—the cost to the Government or the Bureau of Engraving and Printing—was fully covered, and that is what Congress wanted to do.

Mr. SNAPP. Then am I to draw the conclusion from that that you believe that because the Bureau can execute this work cheaper than an individual who has to supply himself, first, with a building, next with machinery—

Mr. SULLIVAN. I think so.

Mr. SNAPP. Then why in the world did not the Bureau produce a lower bid than the outside party, who had to take all of these other items into consideration?

Mr. SULLIVAN. Well, I think there are elements there that governed that.

Mr. SNAPP. What are they?

Mr. SULLIVAN. I don't know, because I don't know what the other elements are. I don't know what elements of expense they counted in.

Mr. SNAPP. What are the elements in the Bureau that must be considered in justifying a higher bid by the Government if it does not take into consideration first its invested capital, next a large item of cost represented by its pay roll?

Mr. SULLIVAN. I think some of the items are shorter hours, 30 days' leave of absence with pay—

Mr. SNAPP. How many hours a day do the men work?

Mr. SULLIVAN. Eight hours is the legal day's work.

Mr. SNAPP. How about the American Bank Note Company?

Mr. SULLIVAN. I don't know.

Mr. SNAPP. Don't you know that it is an eight-hour institution?

Mr. SULLIVAN. I do not know.

Mr. SNAPP. Supposing it is, then that should not be taken into consideration.

Mr. STAFFORD. Is it a fact?

Mr. SNAPP. As I understand it. Do you know, Mr. Ralph?

Mr. RALPH. In our methods of checking up, we do not work over seven hours.

Mr. SNAPP. What other items justify a greater cost to the Government?

Mr. SULLIVAN. Those are about all that I can recall now—the security, the checking up and the checking in and checking out; all those items.

Mr. RALPH. The higher price of wages.

Mr. SULLIVAN. All I know is that we ascertained the actual cost of the work to the Government, and that was the bid made. How it compared with the American Bank Note Company bid is shown, but the details and elements of it I do not know.

Mr. SNAPP. That is, you can not account for the fact that it costs the Government more?

Mr. SULLIVAN. I can account for it in a general way, of course; but as I have said, the item of leaves of absence, the pay of slightly better wages than the outside companies— and we pay more attention to looking after the securities of the stamps and other securities.

Mr. SNAPP. But the specifications require the same precautions to be taken by the outside bidder as are now taken by your Bureau, do they not?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Then how could you take greater precautions?

Mr. SULLIVAN. Well, I don't think they ever took the amount of care that we did, although they had the contract.

Mr. SNAPP. How long ago?

Mr. SULLIVAN. About twelve or thirteen years ago.

Mr. SNAPP. I have nothing to do with that. The specifications require precisely the same performance that you are performing now, do they not?

Mr. SULLIVAN. So far as the specifications are concerned, yes.

Mr. SNAPP. Do not they go even farther and require them to do things that your department is not now doing?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. But still the bid of the Bureau is far in excess of the bid of this outside bidder.

Mr. RALPH. There is power and light and heat, and that would perhaps be put in just the same as we do.

Mr. SNAPP. Is the building occupied by the Bureau for storage room, or the vaults, subject to the approval of the Postmaster-General in any way?

Mr. SULLIVAN. Yes, sir.

Mr. SNAPP. Does he examine and approve of them from time to time?

Mr. SULLIVAN. Yes. He has a representative in the Bureau who goes around, and anything that he sees that is not what he wants he calls attention to.

Mr. SNAPP. I think that is all. If you have any explanations, you may state them.

Mr. SULLIVAN. I desire to say in a general explanation of this bid, as indicated in my answers to the questions regarding cost of the work, that it was ascertained carefully, and the final figures for the bids made up and taken by me to the Acting Secretary of the Treasury, Hon. Charles H. Keep; that I explained to him thoroughly and fully the basis upon which the estimates were made; that this basis was the actual cost of the labor, material, and other expenses that could be returned in the manufacture of postage stamps; that in the labor cost

there was the cost of every employee of the Bureau whose services could be dispensed with in the event of the postage stamps being eliminated from the work of the Bureau; that he fully considered the question, discussed it with me, and said that he believed that was the true basis upon which estimates should be submitted. His words were, that the Bureau a going concern, that the cost of the postage stamps was the ascertained reduction in the expenditures of the Bureau per year, due to eliminating the work upon the postage stamps.

Mr. SNAPP. Then, after taking advantage of all those facts, you finally submitted a bid practically \$25,000 a year, was it not, higher than your competitor? Is that so?

Mr. SULLIVAN. I will come to that, and I will answer that frankly, because I want the committee to understand exactly the conditions. I don't want to conceal anything or have any misunderstanding about it, I assure you. My whole object is to see that the work is done correctly, that the estimates were made correctly, and that I fully believe.

Mr. SNAPP. Of course, I do not feel but that you intended to do that. But what I wanted to ascertain was your method in bringing about this result, in order to account for the fact that a contract was let to a Government bureau at a very largely increased cost over the outside bidder after Congress had indicated an expressed purpose that there should be fair competition.

Mr. STAFFORD. It is a matter of question whether Congress did indicate by the proviso that was carried in the bill last year that the Bureau of Engraving and Printing should do anything else than submit a bid of cost of the work to the Government. I do not believe that there is anything in the proviso that the contract should be let to the lowest outside bidder.

Mr. SULLIVAN. And to continue my statement I will say that I submitted that bid. When the bids were opened I felt that the work would be taken away from the Bureau, and so reported to Mr. Keep. I immediately started to work to carry out the plan for eliminating these people from the Bureau. In the meantime I stopped all of the appointments, and intended to absorb the people in the other work of the Bureau.

Mr. SNAPP. All of them?

Mr. SULLIVAN. So far as I could. Naturally I expected a very large number of them would be furloughed, and so notified them; and that gradually, as we needed people, to take them back into the service of the Bureau. But when the Postmaster-General decided that we were to go on with the work, then all of those steps were reversed, and we went on with the work as estimated. I have since then very carefully tested the estimate of the chief of the division in regard to labor cost that they made at that time, and which I very carefully revised with them, and I find that we are living within the estimated cost.

Mr. SNAPP. That is the cost estimated in the method which you have previously described?

Mr. SULLIVAN. Yes, sir.

Now I have always felt that it is to the greatest advantage to the Government to have the work of the postage stamps executed in the Bureau. I believe that we have saved the Government thousands of dollars by executing the work.

Mr. STAFFORD. In what manner have you saved the Government that amount of money?

Mr. SULLIVAN. In claims of shortages by the postmasters. That is one item.

Mr. STAFFORD. Will you explain a little more fully the other items?

Mr. SULLIVAN. Well, I can not now recollect any other items. But I desire to show the advantages and improvements that the Bureau has made in the execution of these stamps from the time that they came to us originally. When they came to us originally, they were printed upon plain white book paper that could be made in any paper establishment in the country. Immediately steps were taken by the Bureau to watermark the paper which identified ever sheet that is manufactured, and which enables a complete account to be kept over the paper mailed to postmasters [exhibiting paper to members of committee].

Mr. SNAPP. What are the letters on that paper?

Mr. SULLIVAN. "U. S. P. S.," meaning "United States Postage Stamps." When this paper is sent to the printing division it is printed on presses that have an automatic counting machine, and every impression that is printed is automatically registered on that machine, so that the amount of paper issued by the issue division must agree with the register, and with the number of impressions that are sent to the receiving division or the examining division. This is a printed sheet [indicating], and which has been absolutely registered.

Mr. STAFFORD. Containing how many special designations?

Mr. SULLIVAN. Four hundred. It is then counted and sent to the gumming machine, and it is counted when it comes from the gumming machine, so that every sheet of paper that goes to the gumming machines must come from those machines. It is then sent to the perforating division and counted before it goes to the machines, and every sheet of paper must be accounted for again after coming from them.

Mr. STAFFORD. Are these methods that you now describe as pursued in the Bureau added precautions which were not required in the specifications as proposed?

Mr. SULLIVAN. I would not describe it exactly as not being included in the specifications, because the broad language of the specifications might be interpreted to mean all necessary precautions. But I do think that no private concern has ever taken the precautions that we have taken, and I do not think they ever will.

Now the sheets are first split into sheets in that form [indicating], and then into this form [indicating].

Mr. STAFFORD. First divided into lateral halves?

Mr. SULLIVAN. Yes, and perforated; and then subsequently the lateral halves are again divided.

Mr. STAFFORD. So as to make quarters of the whole sheet?

Mr. SULLIVAN. Yes, sir. Now those quarters of the whole sheet are the identical sheet that one purchases at post offices; and, as I say, when we first took over the work of printing these stamps, we received them in bulk, and after counting them and finding them accurate, we commenced to issue them to postmasters. But we soon found that postmasters would claim that they were short in stamps. One of the first instances of that kind was brought to my attention, and an order

was issued directing us to supply the postmaster with the number of stamps which he claimed to be short, the order also authorizing us to credit ourselves with the shipment of those stamps. But I said, No, that is not correct; if this postmaster is short, then we have made a mistake, and whoever made that mistake must be held responsible for it. But if the individual employee has not made a mistake, then there is pilfering going on, and we ought to know that fact; we ought not to fill this order without investigating and receiving credit for it, just as though it was an ordinary transaction.

So it was held up; we did not credit the bill for these stamps and declined to send them. I then turned my mind to devise some scheme by which postmasters could not make any claim without producing evidence that they were short, and since then we have put these stamps up in that form [indicating]. This package is stapled through the margin of the sheet. You can see that it is sealed with these bands, and over the top of the seal is the initial of the counter who counted the stamps. The instructions on the wrapper are that the postmaster must count the stamps without breaking the seal, and if he finds or claims to find that there are any stamps short in the package, he must return to the Bureau the entire package without breaking the seal. Since that device has been adopted—and it has been for years—we have had one claim for shortage. The package was returned to us, and we found that the sheet of stamps had been folded in under so that the postmaster could not count them from the flap.

Notwithstanding that, we have occasional claims of shortage in the loose wrappers, in these loose packages [indicating], showing that where this other device is used, and where the evidence must be produced, there is no claim, while with the loose packages there is a claim, and we, of course, have to run those down. The stamps are in small quantities and are put up loose, and wherever they are put up loose in that way there are claims for shortage which we investigate; but we never have to make any good—they can not substantiate their claims. There was a clerk in the Chicago post-office who substituted 1-cent stamps for 2-cent stamps in very large packages. The agent of the Post-Office Department at that time, a Doctor Davis—a rather eccentric individual—insisted that we should make that good, and went into our vault and took out the stamps. Subsequently, the Post-Office Department had to give us the difference in value between that package and the 1-cent package, because they found the clerk in the Post-Office Department had substituted and stolen the other stamps.

When we took over the stamps we found that the mutilated stamps—those that were spoiled in printing and in gumming and perforating—were sent to the Post-Office Department here just as they were printed, gummed, or perforated, as the case might be. They were taken up by the clerks in the Post-Office Department, and one of those clerks was arrested at the Ebbitt House and charged with stealing a very large quantity of those imperfect stamps, and was, I think, convicted. When we took over the stamps the very first thing we did was to cancel every sheet of stamps that was imperfect, and those were sent to the Treasury Department and turned over to the Destruction Committee to be counted and destroyed by this committee in the canceled forms; so there is absolutely no way of using those imperfect stamps.

And so with the books of stamps. These are sealed, initialed, and every package is initialed by the counters, or the people who have the

handling of them; and the postmaster is instructed that if he finds any shortage in any of these wrappers, the packages must be returned in the condition in which he gets them, so that we can trace them down to the individual who handled them, and find out where the shortage is, or whether there is any shortage.

For those reasons I have always felt that it was to the interest of the Government to execute the work upon its postage stamps the same as upon its other securities.

Mr. STAFFORD. So during the ten or eleven years that the printing of postage stamps has been in the Bureau of Engraving and Printing there have been improvements continually going on, as the needs of the service required.

Mr. SULLIVAN. Yes, sir. To illustrate this one thing in this matter of cancelling these stamps, I want to say that it is now under Mr. Ralph's own personal direction, and we are constructing a machine which will cancel those stamps at a saving of from \$4 to \$8 a day; so that as time progresses the saving in all of these administrative matters will go on, and we will save more and more on this work.

Mr. SNAPP. That is going on more extensively in private enterprises than in governmental work.

Mr. SULLIVAN. Of course that may be.

I want to say one word more. In submitting my estimates this year I have reduced the estimate for the work of the Bureau, exclusive of postage stamps, to the extent of \$163,000.

Mr. SNAPP. That is good news.

Mr. STAFFORD. There was nothing in the specifications requiring that outside concerns should limit the hours of employees to eight hours or under.

Mr. SULLIVAN. No, sir.

Mr. STAFFORD. But the Bureau of Engraving and Printing runs its establishment on the eight-hour basis?

Mr. SULLIVAN. Yes, sir.

Mr. STAFFORD. Are you acquainted with a number of concerns throughout the country that are in a position to contract for the printing of postage stamps under the specifications as proposed?

Mr. SULLIVAN. Yes, sir.

Mr. STAFFORD. How many such concerns are there?

Mr. SULLIVAN. There is but one such concern in the United States.

Mr. STAFFORD. Which is that?

Mr. SULLIVAN. The American Bank Note Company.

Mr. STAFFORD. Does the printing of these stamps as described by the specifications require any large investment of capital?

Mr. SULLIVAN. I think it does.

Mr. STAFFORD. And what amount can you estimate would be required to equip a plant to print these stamps so as to be in a position to compete with this one concern, the American Bank Note Company, leaving out of consideration the Bureau of Engraving and Printing?

Mr. SULLIVAN. I should think it would cost from \$150,000 to \$200,000.

Mr. STAFFORD. For machinery alone?

Mr. SULLIVAN. For the building of a plant and all, I should say it would cost nearly a half million dollars.

Mr. STAFFORD. What position would the Bureau of Engraving and Printing be in to make any proposal for printing these stamps if

a four-year period elapsed during which the work had been done by a private concern, and during which time the Bureau had not done this character of work?

Mr. SULLIVAN. It would be in a very poor position to do it.

Mr. STAFFORD. Would the Bureau of Engraving and Printing likely, under such conditions, be in a position to make a proposal within the price that has been submitted this year by your department?

Mr. SULLIVAN. It would not, sir.

Mr. STAFFORD. It might find itself without any quarters, which would require the Bureau or Government to establish new quarters, and to keep the proposed machinery used in that character of work; and taking into consideration all those items of expense the contract price would be much larger and the expense would be much greater.

Mr. SULLIVAN. Very much greater and very much larger.

Mr. STAFFORD. You referred to new machinery being required in the carrying out of this contract. Did you, in estimating the cost of this service, figure in that element of expense?

Mr. SULLIVAN. I did; yes, sir.

Mr. STAFFORD. Did you figure in all the added expense for new machinery and labor that would be entailed in carrying out this contract?

Mr. SULLIVAN. Yes, sir.

Mr. STAFFORD. Are you in a position to state the efficiency of the employees in the Bureau of Engraving and Printing as compared with those in outside private establishments?

Mr. SULLIVAN. In my judgment, and from the experience I have had in the Bureau, and from knowledge of other outside work, I consider that they are a very highly trained class of people, and a much superior class of people to those who ordinarily go into factories of that kind to work. These people pass a civil-service examination, and that brings us a much more superior class than ordinarily go into work of this kind.

Mr. STAFFORD. The cost of labor as employed by the Government is naturally greater than the cost of labor paid by private concerns.

Mr. SULLIVAN. Yes, sir.

Mr. STAFFORD. And the Government seeks to get the most efficient help for that character of service that can be obtained?

Mr. SULLIVAN. It not only seeks that, but it has in all its branches of engraving and printing a great deal of work of the most efficient character because of the slightly larger rate of wages paid. The surroundings are better, the conditions are better, and the advantage of thirty days' leave of absence will bring to the Bureau many people in preference to going to private concerns. In other words, we have the pick of employees in that business.

Mr. STAFFORD. Will any additional space than that which is now used for the printing of stamps be required in carrying out the contract as entered into by the Bureau for the ensuing four years?

Mr. SULLIVAN. Very slight. There will be a slight increase, and I am arranging now to give to the same work two additional rooms, and that will be about the extent of the increase. But in order to get the work done I think it necessary to give them those two additional rooms in order to get it done expeditiously.

Mr. STAFFORD. Do you consider postage stamps in the nature of a

Government security in which the work of printing should be done at a Government plant rather than by a private concern?

Mr. SULLIVAN. I would prefer to print the securities of silver certificates and notes rather than print the postage stamps, for the reason that the silver certificates and notes are not finished entirely by the Bureau, but are sent to the Treasury Department to be finished. The postage stamp is finished complete and is absolutely worth its face, so that if there was any inducement on the part of employees to pilfer, they would prefer to pilfer postage stamps rather than securities. So that they really require a great deal more care and looking after than the securities, and for that reason.

Mr. STAFFORD. Who has charge of the letting of the contracts for the water-marked paper that is used in the printing of postage stamps?

Mr. SULLIVAN. The Secretary of the Treasury, on the recommendation of a committee approved by the Director of the Bureau.

Mr. STAFFORD. Has there been any change in the quality of paper during the past few years?

Mr. SULLIVAN. No, sir. We have kept it up to standard; but recently we have gotten the paper cheaper, and we are getting paper this year cheaper than last year.

Mr. STAFFORD. For what length of time is the contract let?

Mr. SULLIVAN. One year; from year to year.

Mr. STAFFORD. Are there many competitors for supplying that character of paper?

Mr. SULLIVAN. It ranges from three to four bidders.

Mr. STAFFORD. From your acquaintance with this work, the needs of the Postal Service, and the protection to the Government, what is your opinion as to whether this work should be continued in a Government establishment or not?

Mr. SULLIVAN. I am firmly of the opinion that this work should be continued in the Government establishment for the reasons that I have clearly set forth in the statement I have made to the committee.

Mr. STAFFORD. If the contract should have been let to an outside concern, what action would have been taken by the Bureau, so far as machinery that is now used in the printing is concerned?

Mr. SULLIVAN. We would have dismantled the machinery and it would probably have been sold to the highest bidder; but it would have been worth very little.

Mr. STAFFORD. Can you estimate what value would have been placed upon it?

Mr. SULLIVAN. I could not estimate that.

Mr. STAFFORD. So when the next four-year period expired the Government would not have the necessary machinery to make a proposal for printing?

Mr. SULLIVAN. Would not be in a position to make a bid, and the single company could have the work at its own price.

Mr. STAFFORD. And the other concern, if no other companies entered the field in the meantime, would have a monopoly in the contract for the service?

Mr. SULLIVAN. Absolutely.

Mr. STAFFORD. And judging from the estimates of private concerns in this line, do you expect that there will be any new concerns enter the field that will be in a position to compete for this work?

Mr. SULLIVAN. I do not think there would be any concerns that would be able to handle the work.

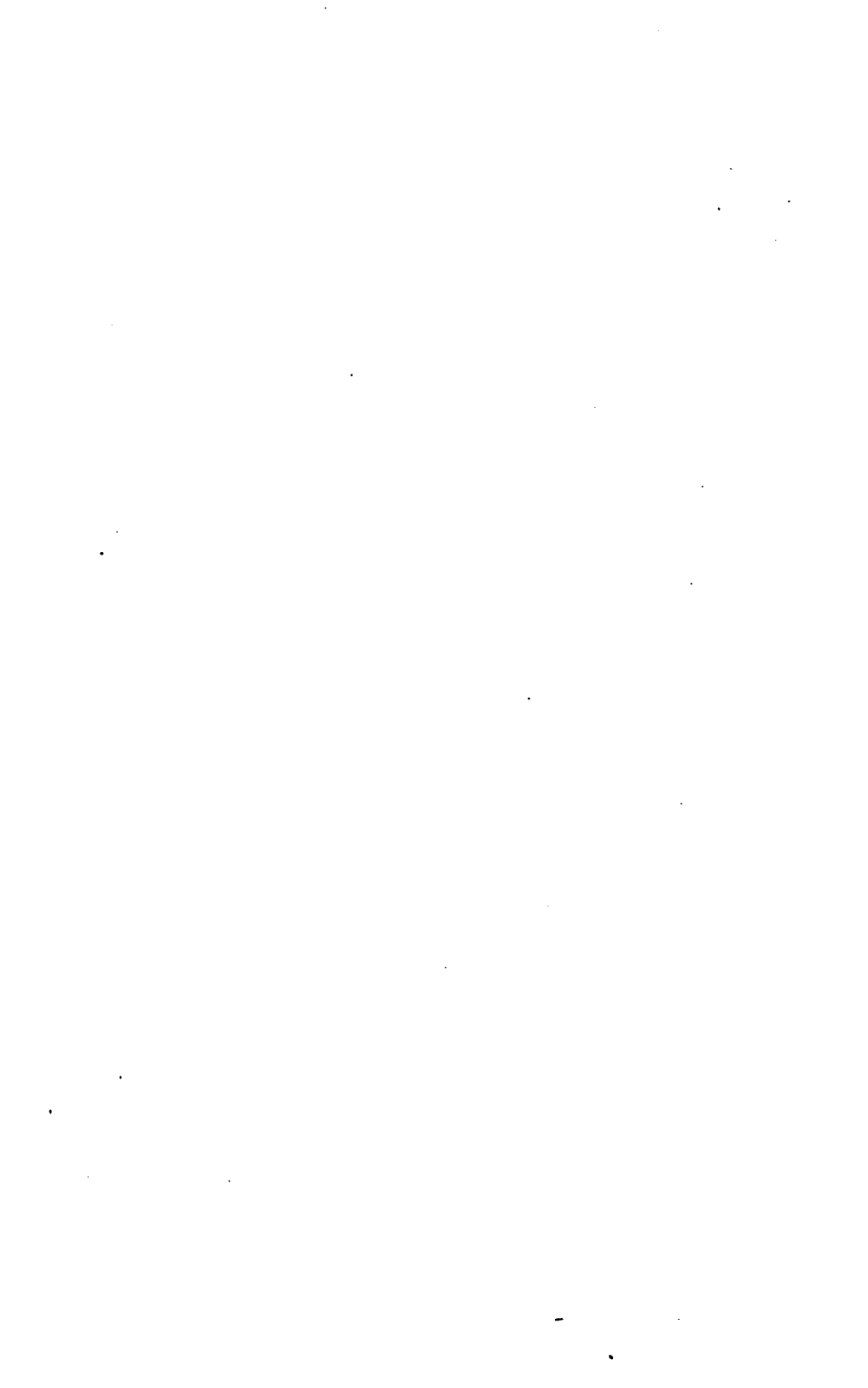
Mr. STAFFORD. Were there years ago more concerns than one which were in a position to compete for this work?

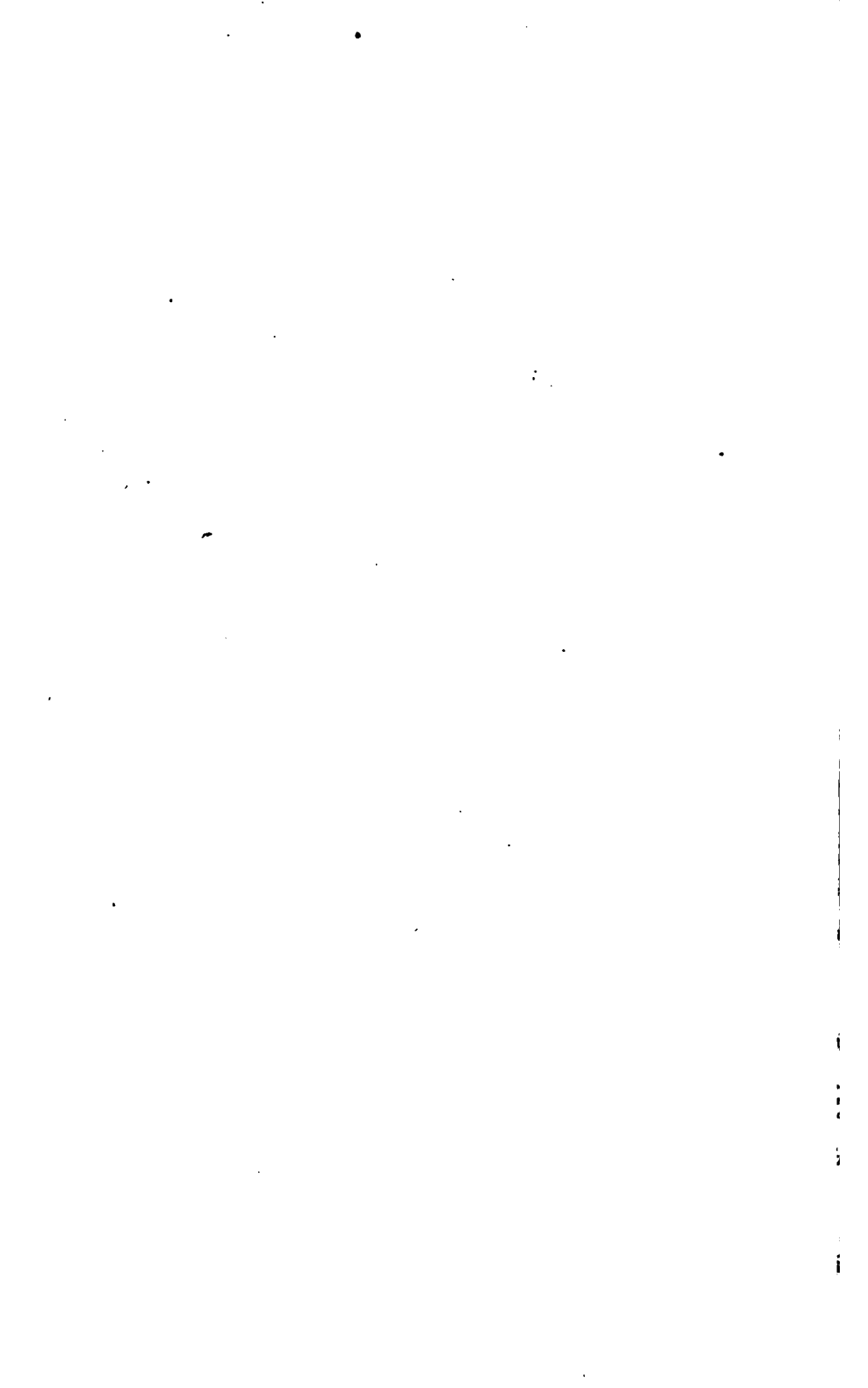
Mr. SULLIVAN. There were a number of concerns that were able to do so, but they were all consolidated into the American Bank Note Company.

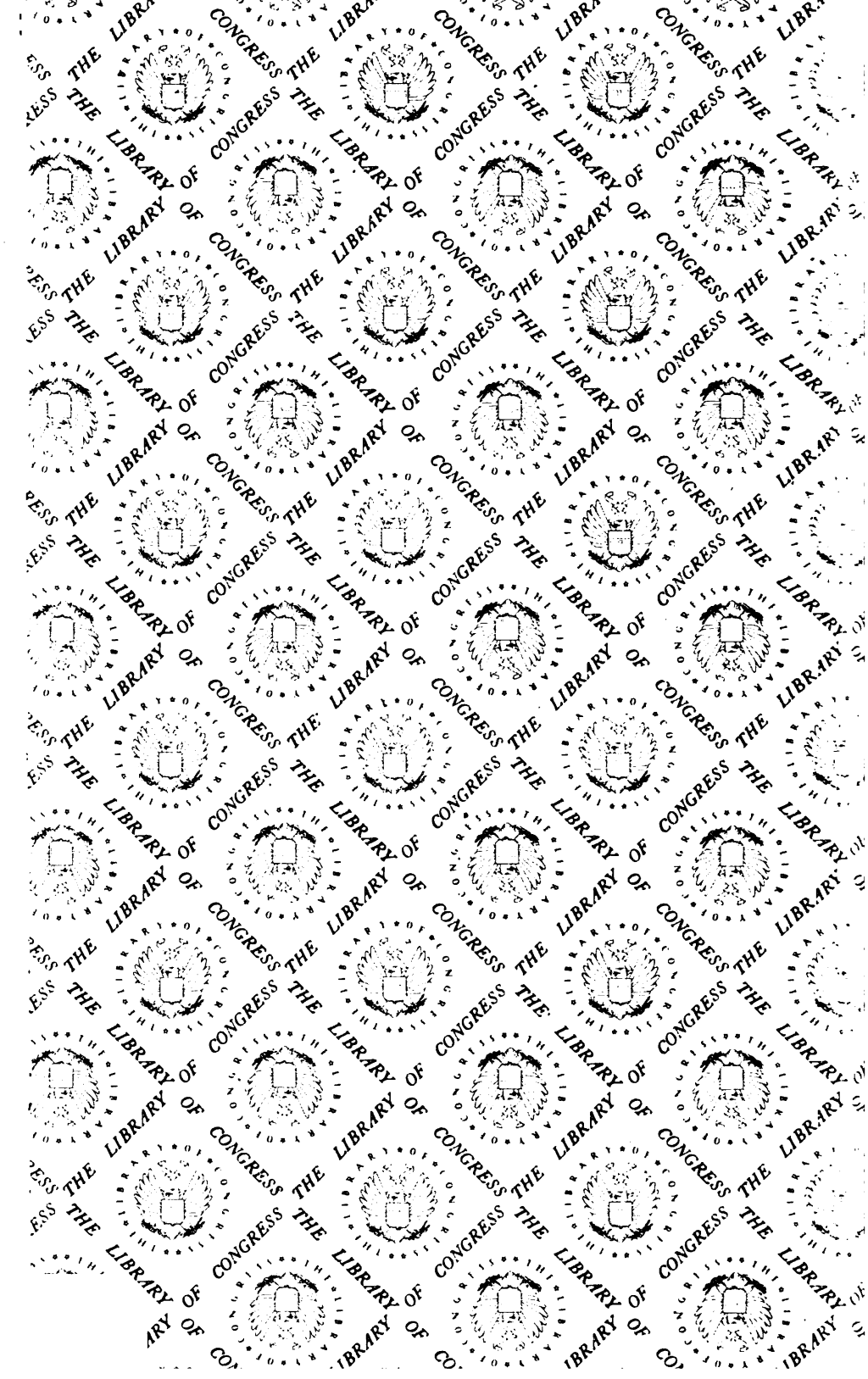
Mr. STAFFORD. So that the American Bank Note Company to-day virtually has a monopoly of that character of work?

Mr. SULLIVAN. Yes, sir; they consolidated the whole thing.

Adjourned at 1:30 p. m.









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